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CV:

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Main works-

A saga of Sacrifices: Praja Parishad Movement in J&K

100 Documents: A reference book J&K, Mission Accomplished

A Compendium of Icons of Jammu & Kashmir & our Inspiration (English)

Jammu Kashmir ki Sangarsh Gatha (Hindi)

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FILE NO: 36

23rd January, 1957

(Krishna Menon)

Book.

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I

23rd January, 1957

Krishna Menon: The Government of India has given consideration to the statement made by the Foreign Minister of Pakistan before the Security Council on 16 January; that is, a statement coming from a neighbouring country with which it is our desire to establish, maintain and continue the most intimate friendship, and made by a person who has been associated with the service of India for well over a generation and who today occupies a place of prominence in his Government.

Before I deal with the subject that is before us, I would like to make this preliminary observation. Yesterday in India, India and Pakistan signed a trade agreement. If this were merely a trade agreement for the exchange of commodities, as might happen between any people, it would not be of any importance. This, like so many other agreements reached between our two countries, which marks a further step forward in the effort, in justice, to get over the difficulties which have arisen from time to time, touches not the feelings so much as the standards of living of our people on both sides.

With that background I will endeavour, therefore, not to introduce invective or anything irrelevant to the subject before us or which would in any way swim against the current of co-operation and fraternity between our two countries.

The present consideration of this matter arises from a letter dated 2 January 1957 (S/3767) from the Minister for Foreign Affairs of Pakistan to the President of the Security Council. It is important for me to mention this because, as I develop the position on behalf of the Government of India, it will be obvious to the Security Council that in this matter it is necessary to place developments, phases, incidents and events in their right perspective. It is not possible to understand a problem, especially a complex problem which has engaged, in the first instance, the attention of the two countries, and the attention of other parties, including the Security Council, over the years—to which I shall refer later—without having the whole picture so that the significance of documents, arrangements and declarations can become realistic and true to fact.

The statement made in this Council on 16 January began, it is true, with a brief mention of the partition of India. It then went on to the position that India accepted "a spurious accession" of the State of Kashmir, and it would appear that what was sought to be conveyed was that we are here in regard to a dispute about territory.

Mr. President, I believe that you and all but one or two members of the Security Council are newcomers to this subject. It is quite true that it is not individuals but States that represent Governments here. And even with regard to States, apart from the five permanent members of the Security Council, the bulk of them, if not all of them, are newcomers to this subject. I have the duty to the Security Council and to my Government, as well as to the cause of international peace and security, to present this problem, even at the risk of trying the Council's patience with detail, in such a way as to enable the picture to be true to fact.

It will be recalled that the last time the Security Council considered this matter was on 23 December 1952, which is more than four years ago, a fact which is not

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without significance, because at a later stage in his remarks, the representative of Pakistan attempted to convey to the Council the feeling that there was a crisis developing in this matter. I shall refer to that factor in a moment.

It was the Government of India that came here in the first instance. The Government of India came here on 1 January 1948. It is not usual for a Government of average ability and intelligence, as mine is, to come before the Security Council and to invite its attention to the wrongs it has done. In this particular case it has done nothing wrong, and in any case the matter is clear in itself.

Therefore, I shall now refer to annex 28 of Security Council document S/1100, which is on page 139 of the Security Council Official Records Supplement for November 1948. The original text is in English, and it is dated 1 January 1948. I hope the Secretary-General will bear with me when I say that it is essential for us to quote these documents, with all the details, because, at variance with the practice of the General Assembly, the Security Council's documents require considerable research if you wish to find some particular point in them. There is no volume of resolutions on this subject; you have to search for the resolutions and put them together. That may be a good thing, because one learns more about them. I should like to read the beginning and the end of this:

> Under Article 35 of the Charter of the United Nations (Krishna Menon: which means that we did not come here with a request for drastic action as we were entitled to do) any Member may bring any situation (Krishna Menon: and I emphasize this word 'situation', for we did not bring here a dispute but a situation) whose continuance is likely to endanger the maintenance of international peace and security to the attention of the Security Council. (Krishna Menon: Then we went on to say): Such a situation now exists between India and Pakistan....

We felt, as indeed my predecessor in this chair pointed out to the Council at that time, that there is no dispute about territory. If it were a dispute about territory, I say with great respect that the Security Council under the Charter would be incompetent to deal with it because that would be either a political or a juridical question, and under Chapter VI or Chapter VII the Security Council would deal with questions of international peace and security. So we brought here a situation and not a dispute.

But that is not the most important part. We went on to say:

> The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance. (Krishna Menon: immediately, on 1 January 1948, and today we are nine years away from it) which is an act of aggression against India.

I shall quote these words more than once before I have concluded, in order to discharge my responsibility as the representative of my Government:

> ... which is an act of aggression against India.

That is the crux of this question. What we are considering here is not merely various resolutions or the method by which a problem may be resolved otherwise. What is before us, as I shall point out later, is this question of aggression, because the whole United Nations is founded upon the basic principles of international law and behaviour. That is based upon equity, and he who asks for equity must come with clean hands. Therefore, our starting point is that we came here in order to file a complaint, to ask for redress on a charge of aggression. If Pakistan does not mention this starting point, then we have to point out why we were so concerned about it. After all, there are difficulties sometimes. Even today we have frontier raids one way or another. But why did we then ask the Security Council to deal with this matter? "If Pakistan does not do so,"—that is to say, halt the aggression,—"the Government of India may be compelled in self-defence"—and I interpolate that self-defence is not only a right of the Member States of the United Nations but, I submit, it is an obligation that Member States have under the Charter because they have an obliga-

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tion to maintain the sovereignties of their own countries—"the Government of India may be compelled in self-defence to enter Pakistan territory",—which we did not do,—"in order to take military action against the invaders. The matter is, therefore, one of extreme urgency and called for immediate action by the Security Council for avoiding a breach of international peace."

As the delineation of this picture becomes more complete it will be clear that the efforts of India and of the Security Council and the approaches made to Pakistan by mediators and so on have at earlier stages been primarily addressed to the halting of hostilities. Other things follow.

Therefore, our country was faced with the position that part of its territory was invaded, and that invasion had to be resisted; it had to be rolled back. The normal practice of war would have been to defend by attacking the invader. But this was in 1947, and it was a fact, which remains true to us at any rate today, that these were the same people who were part of our country but ten years ago. What is more, between January 1947 and October, when these things started, our two countries had only just passed through the holocaust of fratricide, that is, of Indian people killing Pakistanis, and Pakistanis killing Indians. We had witnessed an orgy of violence, and it was the desire of our Government that nothing should be done to rekindle these embers which were still burning at that time.

That is the original position, and I shall keep coming back to it. We are here on a complaint of aggression. That aggression has not been resolved; it has not been got rid of. So long as there are forces of other countries in a place where they have no right to be, irrespective of our rights, I think the Security Council is called upon under the provisions of the Charter to act accordingly.

In this context, so many trees have grown, and a very considerable amount of undergrowth, that it is impossible to see the wood properly, and it will be my attempt to present it as best we can. We shall try to assist the Security Council to see this picture as it was. As I said, five years ago we debated this, and in five years—even apart from the nine years—a great many things happen. It is part of the inevitable practice of nations that the changes in conditions that time brings about and which may go to the root of a question have also to be taken into account.

From there, with great respect to my colleague, the Foreign Minister, I shall follow his example of looking at this problem since the partition of India.

India became an independent country on 15 August 1947. We are not concerned here with the political issues but with the constitutional and other issues relevant to this problem. The independence of India was attained by an Act of the United Kingdom Parliament. The Independence Act of 1947 is that Act, and at later stages we shall draw attention to the clauses relevant to these matters. On 17 June 1947 the United Kingdom Parliament passed the Independence of India Act whereby India was created as a self-governing dominion and a successor State to British India. Popularly, we speak of the British Parliament partitioning the country into two; constitutionally that is not correct.

What happened was that British India obtained independence. India, under the British Crown, obtained independence and in that process Parliament constituted certain territories—which we had agreed on before politically—into another dominion. Therefore, as regards our State, for example, in the United Nations, we did not have to be admitted anew. We came here as a successor State to the India that signed the Covenant of the League of Nations, that signed the Treaty of Versailles, and which also went to San Francisco to help in establishing this Organization, at which time my distinguished colleague from Pakistan was one of the representatives. So India became the successor State by this Act of 1947. The 1935 Act, that is to say, the Act

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of the British Parliament passed in 1935 and which became practical somewhere around 1937, became the Constitution Act.

It was amended in order to deal with certain anomalies, such as the reference to the Crown as the Viceroy, and so on. Various such amendments were made during that period. That is the Constitution Act. Now this Act—and it is important to remember it—deals with the Federation of India. British dominion in India or British suzerainty in India consisted of the overlordship of what is now called by that very ugly word, the sub-continent, that is, the Indian peninsula.

That territory consisted of two groups of political species; one was the British provinces directly ruled under the ultimate direction of the Secretary of State from London; and the other the Indian States. So far as I recollect, there were 562 of them when we obtained independence. Therefore, the problem arose as to what was to be done with the States, because the States were not directly ruled; they were indirectly ruled.

The British Government, with the wisdom which is often not credited to it but which in fact exists, had foreseen that India was likely to become independent. Therefore, as early as the third decade of this century they had tried to define the relations between the British Crown and these States by what is called a doctrine of paramountcy. It is necessary, for purposes of the record and for any future troubles that may arise—not in this particular issue—to state that we do not necessarily accept everything that everybody says about the doctrine of paramountcy. It does not appear anywhere else in international law.

Roughly speaking, for this purpose the doctrine of paramountcy is this: that when we speak of the relations between the Indian States and the Crown—and here again let me emphasize that when the British speak about the relations between the Indian States or we speak about constitutional law, it is the relations between the Crown and the head of the State, because all treaties were between the Crown and the Princes. There were no treaties ratified by any parliaments or legislatures. Therefore, it is argued that the relationships were established on account of the treaties, which are really a kind of charters given, and so on, by the British Crown and the Princes. And the British Government of the day, the Viceroy of the day, argued that this established a privity between them, a privity of contract, a privity of relationship between them, and expounded for the first time, in 1926, this doctrine of paramountcy.

Under the doctrine of paramountcy, when India gained independence the British Government proposed that the Crown was withdrawing. The Crown was withdrawing from the peninsula. The Crown was withdrawing from effective control of British India. And that is a point which I particularly would like the representative of the United Kingdom to take special note of.

Why were these changes necessary in the relations between the Princes and the Crown? Because the Crown was going on legal theory fixed in a two-fold way, through the Viceroy on the one hand, and the Governor-General on the other. It was the fact that he had the Indian Army, it was the fact that he had Indian revenue, it was the fact that he had the Indian police, it was the fact that he had the Indian customs organization which enabled him to arrange the relations with the States.

Some gentlemen around this table are well aware, in constitutional practice, of the difference between status and function. Functionally, therefore, it was the British Government of British India that maintained these relations. It is quite true that there was a constitutional aspect. Therefore, for the purpose of the record we want to read into it that whatever remained in the British Government, by virtue of this function, remains in the Government of India by virtue of its succession. Therefore, the doctrine of paramountcy is limited by this phraseology.

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In order that there may be further support for this argument, I wish to draw the attention of the Council, and particularly of the representative of the United Kingdom, to the fact that a distinguished jurist who was Viceroy of India in the period when these changes were dreamed of in 1926, told the Princes that they had no sovereignty and that they had no independence at any time. There is a classic phrase which says: "Over and above all treaty obligations are certain rights that rest in the Government". And therefore at no time—because that has been brought in so many times, even by us—was the independence of the Indian States the kind of sovereign independence that would have enabled them to become Members of the United Nations. It is quite true, as it is said in the Cabinet Mission's Memorandum, that they were competent to discuss some political relationship other than accession; that is possible. But they would not have been independent, like Colombia, or Cuba, or France, or any of the countries around here, because they had no international status. I want to submit that the British Government, or any Government in the world, cannot just make a country like that.

Independence rests upon function, upon territory, upon the capacity to exercise sovereign rights and, what is more, upon the recognition of the world. Therefore, when we speak about the three alternatives, this has to be borne in mind. My Government, in view of the complications that arise in these matters, is anxious that this should be on the record somewhere, even though it might not have an immediate bearing on what you are going to consider.

The Mission of the British Cabinet was in India in 1946, and on 12 May 1946 it issued a statement in the form of a memorandum. For the convenience of the Council, my delegation has prepared these documents for the purpose of ready reference. The memorandum to which I have just referred appears in our document No. 4. I shall, at some stage, ask for these documents to be circulated as United Nations documents. I believe, we are entitled to ask that. But, for the purpose of reference, the President has a copy, and copies have also been given to the other Members of the Council.

It will be seen that in our document No. 4—which, for convenience, we have handed to the President and his colleagues in the Council—the position is briefly set out at the end of page 3 and the beginning of page 4. I do not want to take up the time of the Council by reading out the whole of this document, but it says in part:

> This means that the rights of the States (Krishna Menon: and the important word is 'rights') which flow from their relationship to the Crown will no longer exist and that all the rights surrendered by the States to the paramount power will return to the States.

That is one statement. The reference is to rights; there is no reference to the other relationships that have been created, and it will be seen that this is referred to in the British Prime Minister's statement in Parliament, because, over and above rights, there are functional relationships set up. The document goes on to say, on page 4:

> Political arrangements between the States on the one side and the British Crown and British India on the other will thus be brought to an end. The void will have to be filled either by the States entering into a federal relationship with the successor Government or Governments in British India, or failing this, entering into particular political arrangements with it or them.

Now this is the basis to which my colleague has referred as being the relationship between the States and India in the future. And, therefore, when the British withdrew from India the *Pax Britannica*, of which we had heard a great deal, became limited by this fact. This new State that had been set up had to weave these threads of unity afterwards. The greater part of the States were in geographical and other contiguity to India, and therefore, both in the British House of Commons and in the Chamber of Princes —which then was the organization for con-

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sultation between the Mission and the Princes, and of which my colleague sitting behind me was at that time the Chancellor—the representative of the Crown, the Viceroy of India, made his announcement as to what all this meant.

There is a statement of what Lord Mountbatten actually did say which appears in Mr. Khan Noon's statement, and we want to deal with that. It says:

The Viceroy and Governor-General, Lord Mountbatten, who represented the suzerain—the King of the United Kingdom and Emperor of India—however, advised the Princes of India on 25 July 1947 that in deciding the question of accession, they must pay due regard to the communal composition, the wishes of their peoples and the geographical location of their States.

I am not willing to rely on my memory in regard to this carefully considered document. We have done all the research we can; we are familiar with the subject. There is no such statement of that character. What is more, the statement does not refer to communal representation. What it says is this—and this is the statement of 25 July 1947 by Lord Mountbatten in the Chamber of Princes:

You people are now free to join either Dominion, or you can be even, in a sense, independent, but of course you cannot evade geography; you cannot evade all that has happened in the past. So you people have to make up your mind.

He said to them:

It was necessary to set up two States Departments...But when I say that they are at liberty to link up with either of the Dominions, may I point out that there are certain geographical compulsions which cannot be evaded? Out of something like 565 States, the vast majority are irretrievably linked geographically with the Dominion of India. The problem therefore is of far greater magnitude with the Dominion of India than it is with Pakistan. In the case of Pakistan the States, although important, are not so numerous, and Mr. Jinnah, the future Governor-General of Pakistan, is prepared to negotiate the case of each State separately and individually.

The rest of it refers to our internal arrangements. The Viceroy went on to say that, in order that there might be a smooth passage over, he was arranging to have a clause inserted in the Independence Act in regard to internal arrangements.

On page 5 of the document it is stated:

Let us turn for one moment to the Cabinet Mission Plan of 16 May 1946. In this Plan the proposal was that the States should surrender to the Central Government three subjects—Defence, External Affairs and Communications. That was a plan which, to the best of my belief, every Ruler and every State accepted as reasonable, fair and just.

But the key phrase in his statement is this:

You cannot run away from the Dominion Government which is your neighbour any more than you can run away from the subjects for whose welfare you are responsible. Whatever may be your decision, I hope you feel that I have at least done my duty by the States.

I have spent some time on this statement because there is reference here to a distinguished national of the United Kingdom who performed such great services to both our countries and to the Commonwealth and to whom we referred as the Representative of the Suzerain of India at that time, and it is essential that there should be no mistake in this matter. Lord Mountbatten did not at that time—nor did the British Parliament at any time in regard to the States—ever refer to communal representation, by which, in India, is meant the grouping of Hindus and Moslems. There was no reference, and it was not the idea at that time that the States should be represented in that way in any of these documents.

But then the other document on which my distinguished colleague relies is the document of 3 June 1947, which is a statement by Mr. Attlee, then Prime Minister of the United Kingdom, in the British Parliament on the transfer of power. I will not labour the Council by reading this document, but it will be found that this document definitely says that this was concerned exclusively with British India. This is what the Pakistan Foreign Minister says:

The basis of the partition of the British Empire in India (Krishna Menon: if by that is meant

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British India plus the States) as set forth in the statement of the then Prime Minister of the United Kingdom of 3 June 1947, was that Pakistan would be constituted by the contiguous Muslim majority areas in the north-west and north-east of the sub-continent, and India would comprise contiguous non-Muslim majority areas. It was thus universally assumed that, following the basis adopted for Partition, Princely States with a Muslim majority in population contiguous to Pakistan would accede to Pakistan.

There is nothing like this in the 3 June document. What is more, it makes a special reservation to say that this does not concern the Indian States, but is exclusively concerned with British India. And it is not splitting hairs on this matter, because he was trying to explain the basis on which the grouping of territories in the partition had taken place. This is merely an explanation of that character. It is explained in paragraph 18 of Mr. Attlee's statement:

His Majesty's Government wish to make it clear that the decisions announced above relate only to British India and that their policy towards Indian States contained in the Cabinet Mission Memorandum of 12th May 1946 remains unchanged.

Therefore, I submit that this 3 June document has nothing to do with this matter, and I have said this, because there is some irrelevancy as to such claims as Pakistan puts forward for Kashmir.

Now it will be seen from this that, while these territories were enabled to be independent, as I have said before, there were a large number of practical arrangements between these various areas. There were 565 States scattered all over India from north to south and east to west. A great many of them were islands. A great many of them were territories which were separated by bits of British Indian territory. There were questions of communications, questions of customs, questions of postal arrangements and various other matters; and over and above those, there was the question of defence. I shall not read out that part, but it will noted that the Viceroy refers to this question as follows:

You Princes cannot defend yourselves; you have to be in a larger grouping. That is the only way to do it.

In the statement made later in the British Parliament by the Prime Minister, he referred to the fact that arrangements should be made to carry on in the intervening period. That was at the time when the British were still ruling India and when we had not been partitioned *de jure*. The Viceroy and Governor-General was still the head of the Government and, at that time, prior to the partition, these arrangements were being carried on, and it was suggested that a standstill arrangement should be made by the two States with whomever they wanted to function.

Therefore, the first part is contained in Section 7 of the Indian Independence Act of 1947, which says:

His Majesty's Government in the United Kingdom have no responsibility as respects the government of any of the territories which, immediately before that day, were included in British India;

the suzerainty of His Majesty over the Indian States lapses, and with it, all treaties and agreements in force at the date of the passing of this Act between His Majesty and the rulers of Indian States, all functions exercisable by His Majesty at that date with respect to Indian States, all obligations of His Majesty existing at that date towards Indian States or the rulers thereof, and all powers, rights, authority or jurisdiction exercisable by His Majesty at that date in or in relation to Indian States by treaty, grant, usage, sufferance or otherwise....

Therefore, there was a void which had to be filled and that is done by a proviso:

Provided that, notwithstanding anything in paragraph (b) or paragraph (c) (Krishna Menon: which I have just read) of this subsection, effect shall, as nearly as may be, continue to be given to the provisions of any such agreement as is therein referred to which relate to customs, transit and communications, posts and telegraphs, or other like matters, until the provisions in question are denounced by the Ruler of the Indian State or person having authority in the tribal areas on the one hand, or by the Dominion or Province or other part thereof concerned on the other hand, or are superseded by subsequent agreements.

This is the period between 17 June, when this Act was passed, and 15 August, when

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we became independent, and 14 August, when they became independent. We are the younger State by six hours.

Arising from this, standstill agreements, as they were called, were formulated. And the purpose of the standstill agreements was to carry on business in the way indicated here, and, so far as we were concerned; that included the matter of the security of the country, because, as I have said, there were areas interspersed all over. They were on our coasts, and they were very vulnerable in the post-war era. Therefore, the two Dominions had to make their own arrangements in this connexion, as the Viceroy had pointed out. Mr. Jinnah, who afterwards became Governor-General of Pakistan, was to negotiate with these States separately. Mr. Zafrullah Khan, who represented Pakistan in the Security Council meeting on 16 January 1948, referred to these agreements, so far as they were concerned, and pointed out what they actually meant. He said:

In any case, he (Krishna Menon: the Maharajah) had entered into a standstill agreement with Pakistan. It is necessary to explain what a standstill agreement is. India, being one political entity before the division on 15 August 1947, had a common system of defence, of railways, post offices, telegraphs, telephones, and a host of other matters. If on 15 August, when at least a nominal division took place between these two Dominions—in some places, the actual division also took place on that date—all these matters had had to be adjusted, the situation would have been impossible. A new currency could not be started merely by a stroke of the pen.

Mr. Zafrullah Khan went on to say:

Each State would come to a standstill agreement with the Dominion of India or the Dominion of Pakistan, according to its own situation and requirements, providing that these matters—mainly communications, and so on—should continue to run on the old basis.[2]

There was a further statement by Mr. Zafrullah Khan. At the Security Council meeting on the next day, he said:

I explained yesterday to the Security Council what the standstill agreements mean. Kashmir had arrived at a standstill agreement with Pakistan with regard to her communications, supplies, and post office and telegraphic arrangements.[3]

I want the Security Council to take note of this last part,—it was with regard to communications, supplies, and post office and telegraphic arrangements, and nothing else. Mr. Zafrullah Khan went on to say, "This agreement became operative on 15 August".

The history of the standstill agreement is contained in the telegrams exchanged between the Prime Minister of Jammu and Kashmir, on the one hand, and the Prime Minister of Pakistan, on the other, and there was a similar series of telegrams between the responsible Minister in New Delhi and the Prime Minister of Jammu and Kashmir. These telegrams at the present moment have not been numbered, but I will number them in the same way and ask that they be included in the record.

As a result of the telegrams that passed between the Prime Minister of Pakistan and the Prime Minister of Kashmir, a standstill agreement was arrived at. The contents of that agreement have been submitted to this Council by no less an authority than Mr. Zafrullah Khan, who was Foreign Minister of Pakistan at that time. It must be stated, there were no signatures on these, because they were agreed between the Governments by means of telegrams.

So far as the Government of India is concerned, on the same date an identical telegram was sent to the Government of India, and India was in the process—and this is important—of negotiating these standstill agreements, and they are contained in the second set of telegrams. In a telegram from the Prime Minister of Jammu and Kashmir to the Government of India it was stated:

Jammu and Kashmir Government would welcome standstill agreements with Union of India on all matters on which these exist at the present moment with outgoing British Indian Government. It is suggested that existing arrangements should continue pending settlement of details and formal execution of fresh agreements.

It may be said here that the "existing

[1]Security Council Official Records, Third Year, 228th meeting, Page 66.

[2]*Ibid.*

[3]*Ibid.* 229th meeting, page 101

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arrangements" comprised the use of Indian forces if there was internal rebellion in one of the States. That had been practised for a long time, but it is not necessary for me to bring that out. The Government of India telegraphed back:

> Government of India would be glad if you or some other Minister duly authorized in this behalf could fly Delhi for negotiating standstill agreement between Kashmir Government and Indian Dominion. Early action desirable to maintain intact existing agreements and administrative arrangements.

Before the Prime Minister could come to discuss these matters, Kashmir was invaded. Therefore the standstill agreements which they were trying simultaneously to conclude with the two countries were interrupted, not by the action of the Government of Kashmir or by the Government of India, but by the active aggression complained of. Therefore, it was not possible for the standstill agreement contemplated to go on, and other developments followed.

There is only one matter to which I wish to refer. We propose to put in, for the reference of the Security Council, the standstill agreement used by the Government of India with regard to all the Dominions and States. This document is important, because we did not cook it up for Kashmir. It is a standard document, and every one of the 500 odd people with standstill agreements had to sign it. There are no other agreements and, therefore, if Kashmir had concluded an agreement with us, the purpose of it would have been the same as contained in this document. I will not read the text, since it would take too long, but the schedule of this document is important and the standard form was different from the substance given of it by Sir Zafrullah Khan. I am pointing out the difference between the standstill agreement of India and the standstill agreement of Pakistan. The schedule included air communications, arms and equipment, control of commodities, currency and coinage, customs, Indian States' forces, external affairs, extradition, import and export control, irrigation and electric power motor vehicles, national highways, opium, posts and telegraphs and telephones, railways, salt, central excises, relief from double income tax and other arrangements relating to taxation, etc.

All these subjects are contained in the schedule of the standstill agreement. Therefore, if there had been no interruption by invasion, it is normal to conclude that a standstill agreement would have been concluded and that that standstill agreement would have included external affairs, control of State forces and of other matters which spring from the sovereignty of a country.

I should like to say that there is nothing inconsistent in a State concluding a standstill agreement with two different countries, especially a State of this kind, where there were railway communications and postal communications with Pakistan. That is why Sir Zafrullah Khan, with great accuracy, pointed out what they had, and this is what we would have had, because this is a pattern which is not altered; but at that time the invasion of Kashmir began.

There is telegram No. 1, the chronology of which is important. I have already referred to the telegrams sent in connection with this matter by the Prime Minister of Kashmir to the Government of India. The representatives will note that the date of this telegram is 12 August 1947. On 16 August, four days later, the Government of Pakistan telegraphed that it had agreed to a standstill agreement and a few days later the Chief of Staff of the Jammu and Kashmir forces, Major-General Scott, a British officer, submitted his first report to his Government, the Kashmir Government, which still had not acceded to anybody, on the border raids from Pakistan. That does not mean there had been no raids before.

All of us know, especially now with all our discussions about United Nations forces, that it takes some time for this sort of thing to travel. Anyway, on 31 August 1947, the Chief of Staff of the Jammu and Kashmir

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army submitted a report to his Government on border raids from Pakistan. So the invasion had begun. That was what prevented the officials of the Kashmir Government coming over to India at that time.

On 4 September, on the basis of a telegraphic report submitted by its Chief of Staff, Major-General Scott, the Kashmir Government protested by telegram to the West Punjab Government against armed Muslims from Rawalpindi district infiltrating into the State. Protests were also made to the Deputy Commissioner.

Two days later there was a marked increase in this activity.

A patrol visited Alibeg, twelve miles west of Bhimbar, and Major-General Lovett, commanding the Seventh Infantry Division —that is to say, presumably of the Pakistan forces—was informed. On 13 September, a Pakistan Army patrol visited Alibeg and Jatlai, fourteen miles west of Bhimbar, both in the State territory. They are all contained in the diary kept by General Scott.

On 17 September—we are now only one month from independence—a band of 400 armed raiders, twelve miles south-east of Ranbirsinghpura drove away herds of cattle belonging to State nationals.

On 18 September, railway service between Sialkot and Jammu was suspended by Pakistan authorities without any reason and in contravention of the Standstill Agreement. So if there was an agreement it was broken by the conduct of the Pakistan Government on 18 September—and this action was not isolated. Armed ganges enter Kashmir in Palandri. Poonch, across the State border. By 18 September the invasion had gained momentum.

On 28 September, hundreds of armed men with service rifles, automatics and spears attacked a Kashmir State patrol near Chak Harka. On 30 September, hundreds of armed Pathans entered Dhirkot then inside the State territory.

On 3 October, the Jammu and Kashmir Government protested telegraphically to Pakistan against hundreds of armed people from Murree Hills in Pakistan operating in Poonch—part of which is now occupied by Pakistan and part of which is in the other side; it also protested against the essential supplies, including petrol, rice, salt and cloth, being withheld. That is the second violation of the Standstill Agreement.

On 4 October, armed men renewed their activities in the Chirala area and near the Jhelum river and fighting between the raider sand the State forces began. Now we had reached a state of war.

On 10 October. two sections of the Pakistan Army followed by an armed gang attacked Pansar village in Jammu. I submit with great respect and a sense of responsibility that what I have now read out is one of the key points in the consideration of the whole of this question—that is to say, Pakistan informed us that they were not involved in this matter. They said, they were trying to stop them. The Security Council asked them not to get involved and not to do anything. Even as early as 10 October, long before the Indian forces had been there, Pakistan had invaded the State of Kashmir. How does it become important? Because, irrespective of whatever claims, whatever relations, whatever titles the Indian Government may have on Kashmir, Pakistan certainly had no rights because it had no accession, no relationships of any kind. At best it was foreign territory. It was an act of aggression. So, on 10 October 1947, the invasion began. And here the diary says that two sections of the Pakistan Army followed by an armed gang attacked the village. And this item appeared in the Pakistan papers:

> The North West Frontier Province Premier is reported to have announced that firearms would be distributed among the people liberally so that all except the 'enemies of Pakistan' can have them.

A very familiar sound.

On 13 October 1947, the following was stated in a newspaper:

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Pakistan has cut off from Kashmir supplies of petrol, sugar, salt and kerosene oil, although a standstill agreement between them has been signed.

Norman Cliff, who was the correspondent of the News-Chronicle (London), not an Indian paper from Kashmir, published this news, in that newspaper.

On 15 October the Maharaja appealed to the British Prime Minister, probably by force of habit, because that was the practice in the past days. The Kashmir Government cabled to the British Prime Minister about the economic blockade of the State by Pakistan and the beginning of the invasion from Pakistan in Poonch. He went on to say:

> People all along the border have been licensed and armed with modern weapons under the pretext of general policy which does not appear to have been followed in the case of internal districts of West Punjab. Whereas military escorts are made available for several other purposes, none is provided for safe transit of petrol and other essentials of life. Protests merely elicit promises which are never implemented. As a result of obvious connivance of the Pakistan Government, the whole of the border from Gurdaspur side up to Gilgit is threatened with invasion which has actually begun in Poonch

that is to say, all the way from the western border, the western district towards the south of the State right up to the mountain area on the frontiers of Sinkiang, the Soviet Union and other countries. In all those areas supplies are made. Some days later, the Jammu and Kashmir Prime Minister telegraphed the Prime Minister of the North-West Frontier Province—that is, a province of Pakistan—and the Deputy Commissioner of Rawalpindi, both in West Pakistan, about people armed with modern weapons infiltrating from Hazara and Rawalpindi districts in West Pakistan into the State and asked them to stop the infiltration. The invaders continued their progress along the Jhelum Valley road towards Srinagar. Srinagar is the summer capital of Kashmir, founded about 2,300 years ago by the great Emperor Asoka. Their triumphant march was temporarily stemmed at Uri, a town fifty miles from Srinagar, by the demolition of a bridge and the gallant resistance of about 150 men under the command of a Brigadier of the Kashmir Army who was killed figthing a memorable last-ditch battle. The raiders managed to construct a diversion which was about a mile long, requiring considerable engineering skill as, according to the Dawn of Karachi of 7 December 1947, it was completed in two days—that is to say, in this invasion the Pakistan sappers or engineer regiments—their REMEs—must have participated. It was not possible for them to do otherwise. A fact will be noticed here to which I will refer later. These men were resisted only by the national militia, by the local population. They were not welcomed as liberators. They fought a last-ditch battle; they resisted these people. That was on 22 October.

On 24 October the Maharaja, who was the head of the State—and it makes no difference in this particular matter whether the Maharaja is constitutional or unconstitutional, whether you like his face or you do not like it or what is the nature of his domestic life; that does not come into it; here is a question of State theory; he was the head of the State and according to the Constitution, the only person competent to sign an accession; nobody else could do it—appealed to India for military help.

May I halt here for a moment? Until now no one from India, either Army or Ministers or anyone, had gone into Kashmir to presuade the Maharaja. No police had been sent. We did not put any pressure on him; in fact, if I may interpolate, in a previous period Lord Mountbatten, on behalf of the Government of India, told the Maharaja of Kashmir, "You will accede to Pakistan if you wish and we will not take it as an unfriendly act," because the Government of India at that time was concerned about not having these States suspended in a vacuum, being the centres of trouble and difficulty, especially a frontier area.

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If they had acceded in the normal way, we would have accepted it, as indeed we accepted the sorry partition to which we subscribe and which we have no desire to undo. The Maharaja appealed to India.

On 25 October Lord Mountbatten attended the Defence Committee at which General Lockhart, the Commander-in-Chief in India, read out a telegram from the headquarters of the Pakistan Army—and this is of importance to my colleagues of Australia and the United Kingdom—stating that some 5,000 tribesmen had attacked and captured Muzaffarabad and Domel and that considerable tribal reinforcements could be expected. Reports showed that they were already little more than thirty-five miles from Srinagar. It was quite normal for those two British officers to exchange telegrams, especially at that time; Pakistan had not acknowledged its invasion. Obviously the Commander-in-Chief and British officers were working outside the policy region.

On 26 October 1947 the Maharaja asked for protection—I shall deal with that letter when we come to the question of accession—and he offered accession to India. This is the position up to 26 October and I will deal with the document regarding accession to India of Kashmir and the surrounding States later, but it is necessary for me to dwell at some length on the history of this period, between that time and the cease-fire. If the members of the Security Council will look at the pages of Document No. 1 from page 5 onwards, they will see what happened in Kashmir. It is stated on page 5:

> ...It is a fact that several top-ranking British officers serving in Pakistan did have an inkling of these preparations and plans, though I do not suggest that they took any hand in their execution.
>
> We came to know later (Krishna Menon: that is, the Government of India came to know later) that, as soon as the June 3rd plan was announced, Kashmir became the subject of attention and study in certain military circles. Why was there a demand on the Survey of India for so large a number of maps of Kashmir (Krishna Menon: that is, from our Ordnance Department in Delhi)? What was the mysterious Operation Gulmarg', copies of orders in respect of which fell into the hands of those who were not meant to receive them?

This was because the Government of India also had an intelligence service. The document goes on to say:

> ....the appearance at the psychological time of Jinnah's private secretary at Srinagar, the presence of Jinnah himself at Lahore, cannot be ascribed entirely to coincidence.....

On 28 October 1947, it is recorded in a diary written at the time:

> In the middle of today's Defence Committee, Auchinleck rang up Mountbatten (Krishna Menon: Auchinleck was a British Field Marshal and Supreme Commander of Armed Forces for the partition of personnel and physical assets of these forces) from Lahore to say that he had succeeded in persuading Mr. Jinnah to cancel orders given the previous night for Pakistan troops to be moved into Kashmir.

I have read this in order to convince the Council that as early as 28 October 1947 the invasion by Pakistan, by a State and not by irregulars, not by a lot of hooligans, but under the command of the Governor-General, had already taken place. The Pakistan Commander-in-Chief was a British officer at that time who, in the absence of General Masservy, telephoned the Military Secretary of the Governor of the West Punjab, with whom Jinnah was staying. General Gracey replied that he was not prepared to issue any such instructions without the approval of the Supreme Commander; that is to say, in those transitory stages it was not quite clear—in fact Pakistan voiced and published a complaint that Gracey had no business to disobey these commands. He was under the command of Auchinleck.

> At Gracey's urgent request Auchinleck flew to Lahore that morning and explained to Jinnah that an act of invasion would involve automatically and immediately the withdrawal of every British officer serving with the newly formed Pakistan Army.

I would like to say that in all these matters, the British officers who served with our Army and, so far as we know, the bulk if not the whole of the British officers serving

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with the Pakistan Army, remained aloof from the lethal operations.

An order given by Mohammed Ali Jinnah in 1947 for Pakistan troops to launch an attack on the province of Jammu was ignored by General Douglas Gracey, who was then acting as Commander-in-Chief of the Pakistan Army. This was revealed on 20 March 1956 at a meeting of the Kashmir Liberation Conference held in Dacca under the auspices of the All-Pakistan Millat-e-Islam Convention by ex-Major-General Akbar Khan of the Pakistan Army. This is the ex-Major-General Akbar Khan who afterwards appears on the Kashmir scene under the name of General Tariq or something of that kind, who later was charged by the Pakistan Government with the offence of treason, or something like that—I forget what it was—and went to prison. Major-General Akbar Khan said that General Gracey thus jeopardized the chance then available of liberating Kashmir. This was the view of the senior Pakistan officer at that time: that the British Commander-in-Chief, by refusing to carry out these orders, had thrown away the chance of liberating Kashmir.

Mr. Jinnah gave his order after a conference held on 27 October 1947 at Lahore with Pakistan Army chiefs. General Gracey said that before launching the attack he would confer with Field Marshal Auchinleck, who was then responsible for superintending the partition of the old Indian Army and the transfer of troops from it to the new Indian and Pakistani Armies. Akbar Khan said that Mr. Jinnah's directive was correct and wise; that General Gracey's insistence on conferring with Field Marshal Auchinleck was unjustified because Auchinleck was not in any way concerned with the operations of the Pakistan Army—and there is some thing to be said for Akbar Khan's arguments. He then described the acceptance of the United Nations cease-fire order in Kashmir and Jammu as inopportune. Instead, Pakistan should have accepted the United Nations mediation in 1948 when the District of Poonch was under the control of the "Azad Kashmir Gvernment".

During this period, various acts of brigandage, of rapine and plunder took place, and if I have the time I would go into this at great length. But what is the political importance of this? The political importance is that if the Kashmir territory was aligned with Pakistan by kinship, by links of blood, race or religion, that is a strange way of showing that friendship, by invading its country, and the rapine and plunder of the raiding forces continued up to Baramula, which is only a few miles from Srinagar. The town was sacked and burned. In spite of the risk that I may take of prolonging this statement, it is necessary at least to look into some parts of this situation.

In his budget speech to the Legislative Assembly of the Frontier Province on 7 March 1949, Premier Abdul Qayyum Khan advocated a special grant for the tribesmen and justified an allotment in these words:

> The House will recall with pride the fact that in our greatest hour of danger the Masuds responded to our call by rushing to the rescue of the oppressed Muslims of Jammu and Kashmir State.

I know of no rule of international law which confers upon a State the right to go and protect someone else in another State, even if he is oppressed. If that were the case, no State would be stable.

On 31 October 1947 the Prime Minister of India telegraphed to the Prime Minister of Pakistan:

> Raiders from the Frontier Province or along the Murree road come from Pakistan territory and it is the easiest thing in the world to stop them at the two bridges which connect Pakistan territory to Kashmir.

We did not blow up those bridges because at that time we were very careful not to go anywhere near Pakistan territory.

> They were not so prevented, (says Mr. Nehru) and their equipment and arms including artillery and automatic weapons bear witness to the help being given to them. We are credibly informed that regular officers of the Pakistan Army are advising the raiders.

The Minister of Health in Sind, another province of Pakistan, at that time appealed

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to all trained and demobilized soldiers to proceed as volunteers to the Kashmir front.

The Prime Minister stated that there could be no doubt whatsoever that all these invaders had come across from Pakistan territory. He said:

> We have a right to ask the Pakistan Government how and why these people could come across the Frontier Province or West Punjab, and how they have been armed so effectively. Is this not a violation of international law and an unfriendly act towards a neighbour country?

At least on this point, the United Nations Representative found that it was a violation of international law. The Prime Minister continued:

> Is the Pakistan Government too weak to prevent armies marching across its territory to invade another country, or is it willing that this should happen? There is no third alternative.

Now comes perhaps the most important evidence of the direct implication of Pakistan in this raid. While this was going on, the Government of India was still trying to settle matters and attempting not to have a repetition of what happened in the previous months in the north-west of India and the north-east of Pakistan. It is in that connection to which the telegrams mentioned by the Foreign Minister of Pakistan refer and to which I shall come in a moment.

Mr. Jinnah invited the Prime Minister to go to Lahore, but he was unable to go owing to ill-health. However, the Governor-General went, and what happened? At that time discussions took place and it was said that both sides should call off their troops; that is to say, the Indian Army should be withdrawn and the raiders, as they were then called, should also leave. But the Pakistan side, represented by Mr. Jinnah, had all along been saying: "We really cannot do anything about these people. They are co-religionists. How can we stop them?" Therefore, either the Pakistan Government had no control over them, or they were abetting them, or there was a combination of both. Mr. Jinnah, therefore, proposed that both sides should be withdrawn. Lord Mountbatten asked the common-sense question of how Mr. Jinnah could be responsible for withdrawing the tribesmen if he had no control over them, to which Mr. Jinnah replied, "If you do this I will call the whole thing off".

Independent evidence has been offered by London newspapers which in no way could be regarded as being disposed too favourably towards India in these matters at that time. Alan Moorehead, correspondent of the London *Observer* in Pakistan, wrote as follows: "The Pakistanis look on this as a holy Muslim War." I read that deliberately, because that is the position even today. This afternoon when we go into these questions we shall be able to cite evidence that that is the position, that is to say that India is threatened by a campaign of hatred and preparation for an aggression against its territory. We shall not fire a shot and we shall not allow a soldier to leave our borders, but just the same as anyone else we shall discharge our duty of self-defence. This correspondent wrote:

> They look on this as a holy Muslim War. Some of them I have seen talk wildly of going to Delhi.

Alan Moorehead motored to Peshawar and the Khyber Pass from where this crusade began. He wrote: "Everywhere recruiting is going on..... This is happening not only in the tribal territory...but inside Pakistan itself". That was at the end of October and the beginning of November 1947.

There is also photographic evidence. An Associated Press photographer, presumably an American, flew over a section of Kashmir and said that he saw more than twenty villages in flames. The villages, in an area ten miles long and ten miles wide, apparently had been set fire to by the Muslim invaders who were scouring the Valley and moving in the direction of Srinagar.

In a report in the *New York Times* by Robert Trumbull, dated 10 November 1947, we read the following:

> Baramula, India, 10th November—The city had been stripped of its wealth and young women before the tribesmen fled in terror at midnight, Friday, before the advancing Indian

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Army. Surviving residents estimate that 3,000 of their fellow townsmen, including four Europeans and a retired British Army Officer, known only as Colonel Dykes, and his pregnant wife, were slain. When the raiders rushed into town on 26th October, witnesses said: 'One party of Masud tribesmen immediately scaled the walls of Saint Joseph's Francescan Convent compound, and stormed the Convent Hospital and the little church. Four nuns and Colonel Dykes and his wife were shot immediately. The raiders' greed triumphed over their blood lust.' A former town official said: 'The raiders forced 350 local Hindus into a house, with the intention of burning it down. The group of 100 raiders is said to be holding another five, as hostages, on a high mountain, barely visible from the town. Today, twenty-four hours after the Indian Army entered Baramula, only 1,000 were left of a normal population of about 14,000'.

Here again is another account concerning Father Shanks, who was one of the Christian missionaries working in the area. It is a story that Father Shanks would never tell. He described the attack on the Convent without mentioning his own name, as follows:

The tribesmen—great, wild, black beasts they were—came shooting their way down from the hills on both sides of the town.

They climbed over the hospital walls from all sides. The first group burst into a ward firing at the patients.

A 20-year old Indian nurse, Philomena, tried to protect a Moslem patient whose baby had just been born. She was shot dead first. The patient was next.

Mother Superior Aldetrude rushed into the ward, knelt over Philomena and was at once attacked and robbed. The Assistant Mother, Teresalina, saw a tribesman point a rifle at Mother Aldetrude and jumped in front of her. A bullet went through Teresalina's heart.

At that moment Colonel Dykes, who had assured us we would not be attacked, raced from his room a few yards along the terrace to get the Mother Superior out of danger, shouting at the tribesmen as he ran. But the Mother Superior fell shot, and Colonel Dykes collapsed beside her with a bullet in the stomach.

Mrs. Dykes ran from her husband's room to help him. She too was shot dead.

While this went on Mr. Gee Boretto, an Anglo-Indian was killed in the garden before nine nuns. Then the nuns were lined up before a firing squad.

As the tribesmen raised their rifles a young Afridi officer, who once studied in a Covent school at Peshawar, rushed in and stopped them.

At least there are living features of human quality in these incidents.

He had been told his men were raiding a Convent, and had run all the way from the town. That saved all our lives by a few seconds.

We did not find Mrs. Dykes until the following day. She had been thrown down a well.

We have another report, as follows:

A Pakistan Army convoy was sent to rescue us. On the way from Baramula we stopped at the village of Boniyar to seek the staff of the World Wide Evangelistic Crusade Mission.

Then we have the following report:

In Baramula the townspeople told me of a young Muslim shopkeeper who had sacrificed his life rather than recant in his creed of religious tolerance. His martyrdom had taken place almost under the shadow of the convent walls, and in the memory of the devoted Kashmiris he was fast assuming the stature of a saint.

He—Mir Maqbool Sherwani—must have been a sort of Robin Hood character, from the stories the townspeople told me, championing peasants who could not pay their exorbitant taxes, pitching into the police when he found them beating up some luckless victim, bolstering up the resistance of the people against their many oppressions.

When the tribesmen invaded Kashmir and terrorized the countryside, Sherwani, who knew every footpath in the Valley, began working behind the lines, keeping up the morale of the besieged villagers, urging them to resist and to stick together regardless of whether they were Hindus, Sikhs, or Muslims, assuring them that help from the Indian Army and People's Militia was on the way. Three times by skilfully planted rumours he decoyed bands of tribesmen and got them surrounded and captured by the Indian infantry. But the fourth time he was captured himself.

On 22 December 1947, the Prime Minister of India handed over to the Prime Minister of Pakistan a letter in Delhi requesting the Government of Pakistan to deny to raiders (1) all access and use of Pakistan territory for operation against Kashmir, (2) all military and other supplies and (3) all other kinds of aid that might tend to prolong the present struggle.

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I should like to draw the attention of the Council to that date, namely 22 December. We waited one week before coming here. The request was the same, that is that the country had been invaded. What was our request? This is what should be taken into account when there is an adjustment of values in the minds of members. Our territory had been invaded and the Army was in a hopeless position, having been sent to Kashmir on less than twenty-four hours' notice. I shall later disprove, if it is necessary, that there was any preparation on the Indian side. We have documents signed of their own will by the British Commander-in-Chief, the British Air Marshal of the Indian Air Force and other personnel of the Indian Army at that time, that the matter was never even broached by anyone before the question of defence arose.

I shall now state briefly what I fear I shall have to say again later.

In this context, if any other country, any other people—and it is not surprising that we did because we were the same people—had made a request of this kind, would it not have been answered by an ultimatum of war on their territory? And what did we ask? We accepted at face value the statements made that these were marauders.

The Security Council, even though it has sat on this for over nine years, cannot forget the facts of history and its obligations to the Charter. We made this moderate request for not giving this aid. I am sure that everyone around the Security Council table would say that a country so invaded has the right under normal practice to say, "We shall retaliate and we shall not withdraw until such and such a time." This was merely a request from one friendly Government to another, proving that we were not in a state of war even then.

Nothing happend after eight days. We would not have come here if any improvement had taken place. On 1 January 1948, India complained to the Security Council under Article 35 of the Charter. Even then we did not come here with the idea of using international forces to restrain, or imposing economic sanctions, or removing Pakistan from its seat in the Assembly, or anything of that kind. We came here to complain to the Security Council under Acticle 35 of the Charter, requesting that "the Government of Pakistan be asked to prevent tribal and Pakistan nationals from taking part in the fighting in the State of Jammu and Kashmir and to deny to the raiders access to and use of its territory in operations against Kashmir, military and other supplies, and all other kinds of aid that might tend to prolong the fighting in Kashmir."

Are these the words either of a belligerent Government or of a Government with expansionist ideas, with the desire to swallow its neighbour—as often pointed out, a neighbour far stronger than we are militarily today? Is this the language they would use?

We came here asking the Security Council to do these things, and it was a modest request. That is still what is pending before the Security Council. The issue that is pending before the Council is one that its members dare to evade only if they are prepared to defy the Charter. Everything else that has gone afterwards makes no difference. I go so far as to say that it makes no difference even if for argument's sake it is said that we were guilty of evasions after this incident, because international law is based upon equity. Anyone who comes here must come with clean hands, and I submit that our hands were clean.

What is more, we did not use our strong arm even at that time. We came here with a limited purpose. It may well be that, if we had forced that position at that time, and not relied upon the processes that followed afterwards, perhaps this matter would have been resolved long ago and, what is more, we would not have been giving the material for the kind of ill-informed adverse propaganda that goes on everywhere. We would not have sown the seeds of doubt in the minds of people sitting around this table.

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Therefore, I repeat this point, to which we shall come back again and again, that it must be planted firmly in your minds that the issue is aggression. The issue is invasion; it is a violation of territory. It is not necessary for me to prove the unquestioned sovereignty of India in regard to Kashmir. It is sufficient for me to prove that we were in possession—even, if you like, in a state of temporary possession—but I am not going to concede that. I want it to be shown on the record that I am not going to concede that, because we have suffered often here by accepting a hypothetical proposition and by saying, "Let us assume this for argument's sake", or saying, "if A, B, C and D happened, then we will do D". Then we discuss D, everybody forgets A, B and C, and we are committed to course D. Therefore, I urge the Council to be extremely careful.

However, suppose, for example, that that was the position. I ask my South American friends to think of the doctrine on which their countries are based. We were in possession legally and in fact. They were invaders, and they had no standing in international law or international practice or according to the Charter, other than as wanton, naked aggressors into the territory of India.

While we made this complaint and it was being considered, what happened? I have not the records here, but I am sure the Secretariat will inform us that the Pakistan Government certainly must have had notice before 11 January, for ten days is a long time. On 11 January, the Foreign Minister of Pakistan, Mr. Zafrullah Khan, who is now a judge of the International Court of Justice—a jurist of standing—informed the Reuters correspondent that it was impossible for Pakistan to guarantee that no Pakistan nationals or other people passing through Pakistan should not go to Kashmir and "participate in the struggle for freedom" That is to say, we were two sister States brought together under the struggle of partition and with feelings of understanding. We agreed to the partition of India as the price of our freedom and also in order to save much bloodshed. Having done that, we came under the same Act of the British Parliament. Here in one part of the country is this rapine going on, and that is called a struggle for freedom. I say with great respect to them—and I do not want to be misunderstood—that we in India, I think, know something of the struggle for freedom. It was that great struggle for freedom that made the independence of Pakistan possible.

Now we turn to the most respectable of the journals of the world, that is, the London *Times*. On 13 January, that is, twelve days after we came here, it stated:

> That Pakistan is unofficially involved in aiding the raiders is certain. Your correspondent has first-hand evidence that arms, ammunition and supplies are being made available to the Azad Kashmir forces.

Here may I interpolate that my Government uses the words "Azad Kashmir" without accepting the connotation of the word "Azad". Although "Azad" means "free", we do not accept the term as meaning free Kashmir forces. They are enslaved Kashmir forces or whatever they are. But we have to use the language as it is given, and it should be understood that we do not regard it in its literal sense.

The *Times* went on to say that a few Pakistani officers were also helping to direct their operation and that, however much the Pakistan Government might disavow intervention, moral and material support was certainly forthcoming.

Both in the municipal laws of many countries and in international law, aiding and abetting either before or after the act is participation in the act itself. Let us assume for a moment that the units of the Pakistan Army were not operating, which we are not prepared to admit. The reason, of course, is that our army officers and their army officers were brother officers. They had met them in Kashmir. They knew them by their first names. They had all worked together in the same regiments before being divided by the partition. We do not want any documentation of this. Let

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us assume that there was not participation of the regular army, as it was suggested that there could not be. According to the *Times* correspondent, if there was no intervention, there was moral and material support. If the correspondent of the *Times* or of any other newspaper suggested this in an article in this way, that would not be sufficient for the conduct of affairs of nations, but it is the start of a whole series of incidents. Certainly it comes from a source that was not biassed in our favour.

Now we come to the stage before the Security Council. We came here with a request that the aggression must be halted. If the Security Council were to tell us that in that letter we did not ask for more drastic action, that we did not ask for condemnation, that we did not ask for Pakistan to be declared an aggressor, we plead guilty. We plead guilty in the sense that we were not prepared and we had no intention at that time, nor have we now, to aggravate the situation. What we wanted was the undoing of the wrong rather than finding fault with somebody.

That is why in that letter, which is phrased in language that is not the language of war, we were simply asking from people who were committing rapine and murder to remove the weapons and not to let them go on with it. That is all we wanted.

Therefore, if the Security Council takes the view that generosity and moderation in these matters, and not asking for the extreme remedy, is a misdemeanour, then I am afraid we must plead guilty, but I hope that the time will not come when the United Nations takes that view.

So we came here on 1 January. On 15 January the Pakistan Government "emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India". This is the letter from the Minister for Foreign Affairs of Pakistan to the Secretary-General of the United Nations, Annex 6 to UNCIP's First Interim Report, document S/1100.

I do not know whether the Security Council wants me to read the whole of it, but this is an official letter submitted as truth to the Security Council. And what does it say? It says:

> Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India.

There are three statements there to which I would request the Security Council to address itself. One is the denial of giving aid and assistance, and the other is that they do not regard the so-called invaders, the rapine in Kashmir, as invasion of territory which is beyond their border. The third statement is that they plead not guilty to aggression. Either they deny the fact or they deny that indirect assistance is not aggression.

In either case, I say that it is a serious violation of all canons of international behaviour. The letter goes on to say:

> On the contrary and solely with the object of maintaining friendly relations between the two dominions the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war.

That is to say, not only did they deny it, but they came and told the Security Council that they were taking deterrent action to prevent it. I ask any member of the Security Council to tell me whether, even assuming that they were exclusively border raiders, whether it was possible for their army to march across long distances over Pakistan territory, whether they could get fuel anywhere, especially at that time, and where these trucks and this machinery came from, and where the officers came from and where the weapons came from?

If it is true that Pakistan could not stop the raiders from going across their country, by what right does this Member State come and say here "We shall take Kashmir under our protection", if they cannot prevent libertines and marauders from walking across their country and making themselves free with the resources that are there? And if a Pakistan Government were to tell us that they cannot stop a belligerent force

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from marching across that territory, by what right then can a Member State say that they are competent to take anybody over? That means it is not a State; it is a territory over which anarchy prevails, if that is true.

But I submit that it is not true. The Pakistan Government at that time had an army which was in no way inferior to the Indian Army. It was part of the Indian Army. They had the division of the forces, according to their size, and so on, as decided by the British Government and the two States that came afterwards. They had all the material. What is more, what was required here was not militant action, but its denial.

Can anyone tell the Security Council that the march of people across long distances over Pakistan territory could not have been stopped by an organized Government? But if that is true alone, it would not be as strong as it is and as condemnatory as it is. But side by side with it stand all the statements I read out to you, where these Ministers call upon person after person, and they call them heroes; they call it liberation; they ask people to give assistance; they ask for volunteers; they ask for funds.

The Chief Minister, the Prime Minister of the Punjab, afterwards accused in certain financial matters, says that he spent this money on Kashmir. And not without evidence—there it is. Then in a subsequent part of the letter, the following is said:

> Governor-General of Pakistan (Krishna Menon: that is Mohammad Ali Jinnah, the founder of Pakistan) explained that he had no control over the forces of the Azad Kashmir Government or the independent tribesmen engaged in the fighting.

This is the same Mr. Jinnah who was asked by Lord Mountbatten: "How can you be responsible for these people?" Then he said, "I will call the whole thing off." I will tell the Council in what context later.

The document which I read is attached to the letter from the Minister of Foreign Affairs for Pakistan to the Secretary-General of the United Nations, and is to be found in paragraph 23(1) of Annex 6 of UNCIP's First Interim Report, to which I referred a while go. The UNCIP in its First Interim Report says:

> Another element, the significance of which had not been fully appreciated before the Commission's departure from the sub-continent, was the Azad Movement which constitutes an organized political and military body, is assisted by the Pakistan High Command and is engaged in active revolt against the existing Government. This Movement has co-operated since October 1947 with invading tribesmen and individual Pakistan nationals.

I submit that if I did not say anything else, and if I read out this paragraph where the United Nations Commission reports that the Azad Movement was an organized political and military body, assisted by the Pakistan High Command and engaged in active revolt against the existing Government, with which the Pakistan Government has co-operated since October 1947, before the complaint came here and which they have denied, and with invading tribesmen and individual Pakistan nationals, that one statement alone, coming from United Nations sources as a finding on fact—not an opinion but as a finding on fact—would, in my submission be adequate to prove the charge of aggression.

In view of the composition of the Security Council, I will ask the members to look at some evidence that comes from American sources. Russel K. Haight Jr., a former American soldier who served for two months in the Azad Kashmir Army, gave a secret interview to *The New York Times* correspondent, Robert Trumbull, in Lahore and stated that Pakistan had provided petrol. The following is the report:

> Mr. Haight also found Pakistan army personnel running the Azad Kashmir radio station, relaying messages through their own Pakistan army receivers (Krishna Menon: I repeat relaying messages through their own Pakistan army receivers) organizing and managing Azad encampments in Pakistan, and supplying uniforms, foods, arms and ammunition which, he understood, came from Pakistan Army stores through such subterfuges as the 'loss' of ammunition shipments. Mr. Haight characterized the Azad Kashmir Provisional Government, headed by Sardar Mohammad Ibrahim Khan as 'Pakistan puppets.' He

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also deeply implicated high Pakistan Government officials, notably the Premier of the North-West Frontier Province.

This is from *The New York Times* of 29 January 1948, and is also quoted by Lord Birdwood who has written a book on Kashmir, again not a friendly book to India. But those are the facts.

The next authority probably will be regarded as sympathetic to India, although many things have been written. Therefore, I will not read it. However, the representative of Australia would be interested to know what was said in the Australasian Continent about this. I do not have an Australian extract here, I could find many. But there is "Kashmir and the United Nations" by "Criticus" in the New Zealand Labour Party's weekly *The Standard* at Wellington, and it was published in India. It was carried on 28 November 1951 in *The Standard*. It reads:

> ...thousands of Muslim tribesmen equipped with arms by the Pakistan Government invaded Kashmir. This was obviously an act of open aggression.

I think it will be admitted that Lord Birdwood, with his background as a Field Marshal acquainted with India, had contact with the British officials and Pakistan, and this is what he says:

> At GHQ in Rawalpindi (Krishna Menon: that is the main army headquarters of Pakistan, as far as I know) in so far as they were prepared to discuss the matter, I was assured that no regular unit was moved before May:

That is, May of 1948.

> Yet a battery of mountain guns with an infantry escort were in action in an unsuccessful attack on Poonch on 17th March, while on the Indian side General Russell believed that regular (Pakistan) troops were involved in January.

General Russell was a British officer serving in the Indian Army. The document continues:

> He accordingly asked to be relieved of his command....

We readily agreed because we did not want British officers to fight British officers on the other side, and we did not want to involve the United Kingdom in any trouble between Pakistan and ourselves. Although General Russell was a very loyal and an extremely able officer, he asked to be relieved the moment he knew the Pakistan Army was in action. And what did the Government of India do? We would have been entitled—and I ask the representative of the United Kingdom to bear with me—to tell this man, "You have signed an agreement with the Indian Army, and this is ordinary military duty". We did not do anything of the kind. We relieved him, and we asked General Cariappa, as Commander-in-Chief, to take over. And General Cariappa, when the British Government left, was a brigadier. It was not as though we had ready-made officers to deal with these matters.

The statement adds that General Cariappa was convinced that at this stage Pakistan was using regular forces. General Cariappa, by the way, was an army officer who recently retired, and who must be very familiar to my Australian colleague, since he was High Commissioner for two or three years afterwards.

General Cariappa, the statement says, based his opinion on the fact that a number of prisoners of regular units had been taken. Now it cannot be said that the Pakistan Army sent a few persons to be taken prisoner for no reason. General Cariappa faced his Pakistan friends with the charge —and anyone who knows General Cariappa would understand how he does this. The statement adds:

> This he was able to do since an invitation to the Pakistan Armoured Corps 'Week' in Lahore came through to him from his old friend, Major General Iftikar, who was then commanding the 10th Pakistan Division in Lahore.

All these men had been brother officers in the same Army only a few days before.

Now this is the position. I should like to stop there so far as the invasion is concerned, and to come back to the political aspect. On 1 January we made our complaint. I read out to the Council a while ago what Sir Zafrullah Khan said on the

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eleventh. I read out all the denials between that date and Pakistan's reply. Nine years ago, on 1 January, we made this complaint, and I read out what the complaint was. On 17 January the Council passed a resolution. That resolution was based upon our letter and took into account Pakistan's reply. I propose to deal with this reply in the afternoon, because it requires a great deal of analysis.

Broadly speaking, what is that reply? It is a denial of the charges; it is a denial that they had given any assistance, it is a denial that there had been any aggression; and then it is a counterclaim on various other matters. But there is no principle of international law or international behaviour which says that if, in respect of a situation or particular problem, a complaint is brought, other misdemeanours in something else can be pleaded in bar. Therefore, I do not propose at this stage to go into the irrelevant intrusion of other complaints made by Pakistan. If the Security Council so desires, in its judgement, it is up to it; but so far as I am concerned I propose to keep to the subject of Kashmir. That itself will take us some time.

Therefore, the position is that we made certain complaints. We asked for certain remedies. Pakistan denied the facts that we alleged. A little later that denial was disproved, not only by what I have read out to the Council from outside sources but by the United Nations Commission itself. Then—I ask as a simple matter of analysis—what remains? We make a complaint; we assert certain facts; those facts would amount to aggression—and I presume the Security Council would not argue that they do not amount to aggression. If those facts amount to aggression and the answer is a denial that the facts took place, and if, afterwards, the Security Council finds that that denial was not correct, then what remains? All that remains is the aggression.

The defence is taken away, and therefore, in the letter that was put before the Security Council, the answer they gave was:

> The situation in their view is due 'to the aid which the invaders, consisting of nationals of Pakistan and of tribesmen from the territory immediately adjoining Pakistan from the north-west, are drawing from Pakistan for operations against Jammu and Kashmir, a State which has acceded to the dominion of India and is part of India.'[1]

That is quoted in the reply, which goes on to say:

> They have requested the Security Council 'to call upon Pakistan to put an end immediately to the giving of such assistance which is an act of aggression against India'. They have also threatened that if Pakistan does not do so, the Government of India may 'enter Pakistan territory, in order to take military action against the invaders'.[2]

At this moment I want to refer to that last paragraph. I have read out what we said. Does that amount to a threat? What we said to the Security Council was, "We want to refrain from doing this. We may be driven to a position where we have nothing else to do, because invasion must lead to war and must spread." Therefore, what we said to the Security Council was not, "If you do not do this we are going to invade". That is not what we said. In fact, right through the Kashmir operations, at a great cost of human lives, we kept this war restricted. That is a story by itself.

Then comes the denial. The letter from the Minister for Foreign Affairs of Pakistan to the Secretary-General of the United Nations dated 15 January, 1948 says:

> Pakistan Government emphatically deny that they are giving aid and assistance to the so-called invaders or have committed any act of aggression against India.

That is a total, straight denial. They deny they are giving aid and assistance to the "so-called invader", or that they have committed any act of aggression. The document continues.

> On the contrary and solely with the object of maintaining friendly relations between the two dominions the Pakistan Government have continued to do all in their power to discourage the tribal movement by all means short of war.

[1] S/1100, Annex 6, document 1.
[2] *Ibid.*

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This is elaborated in paragraph E(5) of document II, which is annexed to the letter in annex 6 of document S/1100. Paragraph E(5) is a reference to Kashmir, and states:

> That India obtained the accession of the State of Jammu and Kashmir by fraud and violence, and that large-scale massacre, looting and atrocities on the Muslims of Jammu and Kashmir State have been perpetrated by the armed forces of the Maharajah of Jammu and Kashmir and the Indian Union and by the non-Muslim subjects of the Maharajah and of the Indian Union....

Now let us assume that all these facts have substance. I do not for one moment say that they have; in fact, they are entirely untrue. But supposing they were true; what rights under the Charter does Pakistan have to go and punish somebody else for that reason? That is not the function of a neighbouring State. So that the aggression is justified by the fact that, first, India obtained an accession by fraud and by violence—something which we shall go into this afternoon—and that, therefore, they are entitled to invade. In other words, it is taking the law—if it was the law—into their own hands.

That is war. That is aggression. If one returns to that, then it will be a case of each side claiming right on its own side, and I say that, irrespective of the truth or otherwise of this matter, this entry would amount to aggression.

> Numerous attacks on Pakistan territory have been made by the Royal Indian Air Force, armed hands of the Indian Union in the State of Jammu and Kashmir.

This has been denied by Indian Army officials, who were at that time British officers. No preparations were made for going to Kashmir; in fact, we lost all our men who went there on the first day.

The Security Council met for the first time on 6 January 1948; that is, we complained on 1 January, the Council met on the 6th and did some preliminary business, and Pakistan filed a reply on that date, which I have read. On 17 January 1948 the Council adopted the following Resolution:

> Having heard statements on the situation in Kashmir from representatives of the Governments of India and Pakistan;
>
> Recognizing the urgency of the situation;
>
> Taking note of the telegram addressed on 6 January by its President to each of the parties and of their replies thereto in which they affirmed their intention to conform to the Charter;
>
> Calls upon both the Government of India and Pakistan to take immediately all measures within their power (including public appeals to their people) calculated to improve the situation and to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation;
>
> And further requests each of those Governments to inform the Council immediately of any material change—

I request you, Mr. President, to take note of this phrase "to inform the Council immediately of any material change" because it appears afterwards:

> in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration by the Council, and consult with the Council thereon.

My Government submits that from that day onwards, the basic ideas, the basic principles of the Security Council's resolutions have been violated by our sister State of Pakistan because the appeals to the people were in the opposite direction, as I pointed out. Nothing was done to improve the situation. More help followed and, what is more, as the years went on, this became, as was said by the Commission, a large-scale undeclared war; and, therefore, from the very beginning, if it is true that there was the regrettable behaviour of committing aggression and then trying to defend it, it was even worse when the Security Council called upon the party concerned to take no further action, and that is part of the answer which the Government of India has to give at this stage: to point out how, during these nine years, every one of these have been violated, and violations are continuing. That is why I said in the beginning that it is not sufficient to catch an argument somewhere at a cross-section and say that that is the picture. You have to look at what is behind, at what is going on, and what is

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likely to go on in the future if the words of the Foreign Minister are to be construed in their proper meaning.

Now, the "material change" to which I referred. On 20 January, three days later, the Security Council further considered the matter and this is its resolution:

Considering that it may investigate any dispute or any situation which might, by its continuance, endanger the maintenance of international peace and security; that, in the existing state of affairs between India and Pakistan, such an investigation is a matter of urgency;

Adopts the following resolution:..

I want to point out that this resolution of 20 January 1948 is one which binds the Security Council. It was a decision of the Council in regard to its own conduct.

A. A Commission of the Security Council is hereby established, composed of representatives of three Members of the United Nations, one to be selected by India, one to be selected by Pakistan, and the third to be designated by the two so selected.

Each representative on the Commission shall be entitled to select his alternates and assistants.

B. The Commission shall proceed to the spot as quickly as possible. It shall act under the authority of the Security Council and in accordance with the directions it may receive from it.

That sentence gives all the weight that is necessary to the findings to which I previously referred. It is not as though the Commission's report were an unofficial document. It was in obedience to this mandate.

...It shall keep the Security Council currently informed of its activities and of the development of the situation.

I regret to say that, as a material matter, the Commission did not do so.

...It shall report to the Security Council regularly, submitting its conclusions and proposals.

C. The Commission is invested with a dual function:

(1) To investigate the facts pursuant to Article 34 of the Charter;

(2) To exercise, without interrupting the work of the Security Council, any mediatory influence likely to smooth away difficulties; to carry out the directions given to it by the Security Council; and to report how far the advice and directions, if any, of the Security Council have been carried out.

D. The Commission shall perform the functions described in Clause C:

(1) In regard to the situation in the Jammu and Kashmir State set out in the letter of the representative of India addressed to the President of the Security Council, dated 1 January 1948, and in the letter from the Minister of Foreign Affairs in Pakistan addressed to the Secretary-General, dated 15 January 1948; and

(2) In regard to other situations set out in the letter from the Minister of Foreign Affairs of Pakistan addressed to the Secretary-General, dated 16 January 1948; when the Security Council so direct...

So I submit that, even according to that resolution, any reference to all these irrelevant matters is outside the competence of this resolution. This was what we both accepted.

E. The Commission shall take its decision by majority vote. It shall determine its own procedure.

G. The Secretary-General of the United Nations shall furnish the Commission with such personnel and assistance as it may consider necessary.

These two resolutions may be taken together for consideration. And the Government of India accepted the resolution of 20 January. It accepted that resolution, despite its undisputed and irrevocable claim to sovereignty over this territory, in view of the fact that the situation was likely to lead to difficulties, in its faith in the United Nations—then perhaps more fresh than it is today, but still a faith that is founded in the Charter and the recognition that, whatever may happen in the intervening period, by and large truth catches up. Governments that have a responsibility for their own territories will not sit back and brook aggression from a neighbour. Therefore, we accepted these two resolutions and agreed to the setting up of the Commission in order that it might perform its dual function, and I submit that, in the performance of the first of these functions, the Security Council has before it the facts. It would take me many a long day to sift all the

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paragraphs, all the statements, all the questionnaires, the assurances given in great detail, but the fact does remain—and this is to be corroborated after—that the Commission did report that there was aggression, that there was material change in the situation—of which the Security Council was kept in the dark, and thereby, the Council, while it was passing resolutions and, in my humble submission, often, out of its generosity presumably, was taking the view that there are two sides to some kinds of truth. At that time changes were occurring in the situation, and it is not as though those changes stopped there, those changes still continue, so as to make it impossible to pursue the root of the matter on the lines that were thought of five years ago.

The Security Council, therefore, adopted this resolution and, having done so, went on to inquire about various things. Meanwhile the Security Council changed the title to the "India-Pakistan Question". We stated at that time that we had no objection to the use of any words which might be desired, but we maintained that the Kashmir question was the subject of the complaint.

On 21 April the Council adopted another resolution. That resolution was a modification, and it gave new instructions to the Commission providing for the withdrawal of the troops and the holding of a plebiscite, and the membership of the Commission was increased to five. On 5 May of that year, the Government of India formally informed the Security Council of its rejection of certain parts of this resolution, and that correspondence is contained in document S/734/Corr.1. India, however, expressed its willingness to confer with the Commission. The letter stated:

> The Government of India have given the most careful consideration to the resolution of the Security Council concerning their complaint against Pakistan over the dispute between the two countries regarding the State of Jammu and Kashmir. The Government of India regret that it is not possible for them to implement those parts of the resolution against which their objections were clearly stated by their delegation, objections which, after consultation with the delegation, the Government of India fully endorse.
>
> If the Council should still decide to send out the Commission referred to in the preamble of the resolution, the Government of India would be glad to confer with it.

That letter was signed by Mr. Nehru, the Prime Minister of India and Minister for External Affairs. Irrespective of the fact that we did not agree to the expansion of the terms of reference, the Government of India felt that it would be inhospitable and discourteous to the United Nations not to see the members of the Commission. There are cynics who say that that was where our troubles began, but it would be wrong to take that view, because if nations, out of risks and fears in this direction, would not enter into negotiations, then they would not be able to assist in the implementation of the functions of the Charter. But, and I say this in all sincerity that carries with it the fact that one should not penalize those who necessarily do not stick to the letter of their communication, that is to say, they do not confine themselves to that, but are prepared to go a little further in exploration. Therefore, while we rejected this resolution and refused to accept it, we agreed to receive the Commission. At that time, Mr. Gopalaswami Ayyangar, who was the Minister in the Indian Cabinet responsible for these affairs, spoke before the Security Council and he registered objections. I will not read the whole of his speech which was very long, but it is apparent from the preliminary discussion in January 1948 that it all turns upon what we agreed to. I have made no comment on this, but if I were to do so, I could say that perhaps it was a little previous and it went to the substance. Mr. Gopalaswami Ayyangar said:

> I would now proceed to review briefly some of the detailed provisions of the draft resolution presently under consideration. By way of anticipating a possible claim from the other side, I desire to say a few words on the question of accession... 'whether the State of Jammu and Kashmir is to accede to India or Pakistan'. The contention has been advanced (Krishna Menon;

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and this is our position) that the accession is for a temporary period (Krishna Menon: to do that it will be necessary to repeal an Act of Parliament) and a limited purpose, and when that period elapses and that purpose has been served, it ceases to be operative.[1]

That was the contention. Mr. Gopalaswami Ayyangar went on to say:

We, on our side, repudiate this claim (Krishna Menon: This is as early as 1948, so it was not an afterthought) The accession which took place on 26th October 1947 was both legal and lawful. It has been followed up by India in the discharge of all the obligations that her acceptance of the accession has imposed upon her. She has saved the Jammu and Kashmir State from disintegration. She is now resisting those who are attacking that integrity even today. She is protecting the State's large population from the unfriendly attentions of raiders from outside.

The accession therefore subsists today and will subsist even after the fighting ceases and peace and order have been restored.[2]

That has been the basis of our position from 1948 onwards, it has never moved. Mr. Gopalaswami Ayyangar went on to say, "Until then, Pakistan has no constitutional position". He went on to make a statement which is very important from our point of view.

After the fighting ceases, the whole of the State will have to come under one Government. By the whole of the State, I include also the area which is now under the control of the rebels and raiders. When the whole of the State thus comes under one administration—and that, the administration of the State of Jammu and Kashmir—India's garrisons will need to be planted at her outer frontiers on the west of the Jammu and Kashmir State. This planting is necessary for enabling India to discharge her obligations for the defence of the State which she has taken over under the Instrument of Accession.[3]

This is an undertaking which is not only sanctified by our Constitution, it is enjoined by an Act of Parliament of the United Kingdom, which is the basis of our Constitution. These obligations that we are carrying out were also agreed to by the Security Council. The Security Council at no time challenged either the sovereignty of Jammu and Kashmir or the validity of the accession, and that is the only thing that stays. Therefore, wherever this resolution goes into the question of treating these two countries as though they were two parties to a complaint, we have resisted that position and we have not subscribed to that part.

If it were necessary, I would go into the details of the 21 April resolution, but I do not think it is necessary because we are now covered by the resolution that followed. The Commission was appointed by the 21 April resolution. We did not accept that resolution; but what did Pakistan do? Pakistan protested against the resolution without accepting it. It, however, chose Argentina as a member of the Commission on the same day. We objected to certain parts of it, but we agreed to receive the Commission. Pakistan protested and said they would not accept the resolution.

So if the resolution of 21 April has any value, then it depends upon the juridical argument: What is the status of a Security Council resolution under Chapter VI which makes recommendations? And they can have value as part of the process of conciliation only if the two parties agree. In the first instance, we did not agree entirely but we did agree to its function. Pakistan rejected it. Then they came in as a matter of conduct. By conduct they ratified parts of it, and therefore it has been necessary for the Security Council to examine the conduct and how far and into what regions this conduct travels. And so when, as was hinted—not said but hinted—in the observations of the representatives of Colombia and Cuba the other day—they were quite rightly concerned about the position of the Security Council—it is necessary to look into the substance of it and see what we agreed to and what we did not agree to.

As a result of this resolution, and in spite of the fact that both sides were unhappy about it, the Commission did go and it was well received in India. We did our best to make it acceptable in Kashmir and they spent a great deal of time.

[1] Security Council Official Records, Third Year 285 Meeting, page 13.
[2] *Ibid.*
[3] *Ibid*, page 14.

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II

23 January 1957

Krishna Menon: Before I continue the observations I was making this morning, I should like to submit that the length of these observations does not arise from any particular desire on the part of my delegation to prolong these proceedings. It arises from the fact that this matter has not been before the Council for many years and, as I said this morning, there are very many new members—and the basic positions have to be understood if the Indian case is to be presented adequately. Therefore, if the Security Council desires to hear all the aspects of this matter as far as they are relevant, it will be necessary for my delegation to take the necessary amount of time. But I do not want to prejudice the Security Council by creating any feeling that the length of these observations arises from any other reason.

The President: May I say to the representative of India, on my own behalf, that, while the Philippines is a new member of the Security Council, the representative of the Philippines has taken it upon himself to read the documents in connexion with the question at issue. The representative of India need therefore have no fear that the representative of the Philippine is not conversant with the documents in this matter.

Krishna Menon: Of all the documents that have been circulated, I have read out only such relevant extracts as are necessary, leaving it to the delegations, as the President has suggested, to read the documentation for themselves. But the fact that these papers are no file does not by itself ensure that the points in them will be brought out properly.

I was dealing this morning with the resolution of the Security Council adopted on 21 April 1948, and I pointed out that we objected to several paragraphs of it. But we were quite willing to confer and, as a result of that, the United Nations Commission started functioning.

It is not really relevant to my purpose to go into the activities of the Commission. But they met at Geneva on 16 June, and a study of the documents will reveal that at that time the Commission was concerned, and very much concerned, with one matter—and that was the matter of stopping the fighting. If the relevant paragraphs of the Commission's report were read, it would be quite clear that the concern of the Commission was somehow or other to bring about a cease-fire.

I read the following from the Commission's report:

> At the fourteenth meeting, it was agreed that the question of an immediate cease-fire should be explored and that the Government of India should be asked for its observations regarding the ways and means by which such a cease-fire might be brought about.[1]

The Commission went on to state:

> That its immediate objective was to bring about a cessation of hostilities rather than to deal with specific provisions contained in resolutions of the Security Council.[2]

Thus, the Security Council resolutions adopted earlier in the year had been disregarded by Pakistan in the sense that it had

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[1] Interim Report of the United Nations Commission for India and Pakistan, 9 November 1948, S/1100 para 45.

[2] *Ibid.* para 47.

introduced other forces and heavy fighting had been taking place in the northern areas. What I said this morning referred very largely to the offensive in western Kashmir. While that offensive was going on, however, and despite the injunctions of and the undertakings given to the Security Council that any material change in the situation should be reported, a considerable offensive was taking place in the northern areas; I shall refer to the details of this latter offensive when I deal with the northern areas.

As a result of this heavy fighting, the Commission was naturally concerned about the immediate objective of achieving a cease-fire. The Commission met in Geneva, and finally got to Karachi on 7 July. It was at that time that there occurred the new development which has been described as a "bombshell" in a book written by Mr. Korbel, who was then the Chairman of the Commission. I read from the Commission's report as follows:

The Commission stopped in Karachi from 7 to 9 July. The principal representatives were received informally by the Minister for Foreign Affairs and Commonwealth Relations, Sir Mohammed Zafrullah Khan. He reviewed at length, and along the lines of the expositions made before the Security Council, the general background of the problem and the broader issues involved in the dispute between India and Pakistan. In the course of this interview.....

And this is the relevant passage:

.....the Foreign Minister informed the members of the Commission that the Pakistan Army had at the time three brigades of regular troops in Kashmir and that troops had been sent into the State during the first half of May. Sir Mohammed Zafrullah Khan stated that this action had been taken as a result of the spring offensive by the Indian Army.[1]

The Security Council resolution had asked for information with regard to any material change in the situation. The above-mentioned information given by Sir Mohammed Zafrullah Khan was regarded as a material change in the situation and was communicated to the Security Council. I read again from the Commission's report:

At the nineteenth meeting, on 20 July, a confidential cable was drafted and dispatched informing the Security Council of the presence of Pakistani troops in Kashmir. The Commission adopted a resolution requesting the Secretary-General of the United Nations to appoint a military adviser.[2]

It was the presence of these troops—which had been denied all along, but was admitted by the Foreign Minister of Pakistan when the Commission arrived in Karachi—that created a new state of affairs.

At a later stage, the Pakistan Government gave the reasons for this invasion.

The report continues:

Sir Mohammed Zafrullah Khan stated that three main reasons had motivated the entry of Pakistan troops into Kashmir: protection of the territory of Pakistan from possible aggression by Indian forces; prevention of a *fait accompli* in Kashmir by the Government of India; and prevention of the influx of refugees into Pakistan.[3]

I submit that none of these reasons has anything to do with the people of Kashmir. We have heard a great deal about their future and their destiny, but if the protection of the territory of Pakistan from Indian forces does not sound like a preventive war I do not know what it is—that is the situation where a Member State gets the right to go into a neighbouring territory for fear that it might be attacked from that State. So protection of its territory, the first reason, is not a reason that is sanctioned by the principles of the Charter.

With regard to the prevention of a *fait accompli* in Kashmir by the Government of India, so far as the legal position is concerned, whether the Pakistan Government accepted it or not, it had been put before the Security Council; and if the view was that a *fait accompli* must not be brought about, then the Pakistan Government intended, in spite of the resolution of the Security Council, to decide this by force of arms, that is to say, to use its troops in order to prevent a *fait accompli*.

[1] Interim Report of the United Nations Commission for India and Pakistan, 9 November 1948, S/1100, para 40.

[2] *Ibid* para 53. [3] *Ibid* para 51.

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The third reason was to prevent the influx of refugees into Pakistan, and I would say that of all the reasons given this is the one that least holds water. After the partition there were seven or eight million people leaving in each direction. Refugees came from Pakistan into India and from India into Pakistan—one of those horrid scenes in our common history which I hope we shall be able to forget some day. But the idea of troops moving in to prevent the influx of refugees into Pakistan is difficult to understand. The only refugees who went into Pakistan presumably were those who preferred Pakistan as a home. Are we to understand that the Pakistan Government was going to prevent these refugees by the use of an army?

So there are three reasons given, none of which in my submission has any substance.

This other matter to which I referred just now was a matter of serious concern to the Government of India and the Commission notes that. The Commission says—these are the Commission's findings—that Pakistan had not informed the Security Council of the presence of its troops in Kashmir because at the time they had been sent into the State the question had been entrusted to the Commission, whose daily departure was expected. This is Sir Zafrullah Khan's explanation. The matter put before the Commission immediately after its arrival in Karachi, in the view of the Foreign Minister of Pakistan—that is, the presence of foreign troops in Kashmir—did not raise the question of international obligations since Pakistan had never accepted any in regard to non-interference in Kashmir.

This view was repeated in Mr. Khan Noon's statement before the Security Council, that is to say that Pakistan had no international obligations in regard to non-interference in Kashmir. I submit this is a violation of the provisions of the Charter. Therefore the explanation that is given, that is, that the Commission "is coming here so we will not let it know", when the Security Council had asked six months before that these things should not be done, does not hold water. And what is more, this would have been more plausible if in the course of these six months there had been no denial. Then, to buttress this argument, the Foreign Minister went on, says the Commission, to dwell at length on economic and strategic considerations. Now if it is right to lead an army into a country for economic and causes of his negation are even more justified.

The Commission goes on to say:

> The Minister for Foreign Affairs... argued that India, if it had control over Jammu and Kashmir, would be in a position to divert all five rivers of the Punjab, that is, Chenab, Jhelum, Beas, Sutlej and Ravi, the last three being already under Indian control, and thus could reduce to a desert one-third of the irrigated areas of West Punjab;[1]

I think the most amazing paragraph is paragraph 68 of this report which says that the Foreign Minister pointed out:

> ...that, if the Radcliffe Award had followed the terms of reference under which the Boundary Commission had operated and had included all Muslim majority areas in West Punjab, the Pakistan boundary would have been much further to the east.

Now what is the implication of that paragraph? The Commission pointed out that Lord Radcliffe had given an award and that award, in this particular respect, was not satisfactory to Pakistan and in many respects it was not satisfactory to us. And here the Foreign Minister is saying that if the Radcliffe Award had been given the other way then of course the question of Kashmir would have been further eased and the question of direct access would not have arisen. Therefore, by implication, this invasion is a method of modifying the Radcliffe Award by force. At the time it became public knowledge—we knew all the time that it was going on—that Pakistan had invaded Kashmir, this created a great deal of feeling in India, and the Prime Minister made some reference to it in some speeches he delivered, against which Pakistan pro-

[1]Interim Report of the United Nations Commission for India and Pakistan, 9 November 1948, S/1100, para 67.

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tested. And the response of the Commission is significant in this matter to show how it felt about it. At the thirtieth meeting on 6 August the Commission considered a telegram received from the Government of Pakistan protesting against a speech delivered by Prime Minister Nehru on 25 July in Madras and asking what measures were contemplated by the Commission. The Commission felt that in view of the presence of Pakistani troops in Kashmir any representation to the Government of India about this speech of the Prime Minister would be ill-advised and therefore the receipt of the telegram was acknowledged without comment. The Commission exchanged views concerning alternatives—this is another significant part—to a plebiscite, keeping in mind that the study of the alternatives could not be seriously undertaken without the consent of the Governments of India and Pakistan.

During these same meetings, the Government of India and the Government of Pakistan produced before the Commission the various conditions which they regarded as necessary for establishing a cease-fire. The Pakistan position, so far as I understand it, subject to correction, as set out in paragraph 50, was that a cease-fire should come after arrangements for a political settlement—a very familiar argument in the United Nations. The principles which the Government of India regarded as necessary for agreeing to a cease-fire, as set out in paragraphs 46, 47 and later, were the following. When the Commission, under its Chairman, Mr. Graeffe, interviewed the Prime Minister, the following points were submitted on behalf of the Indian Government: (1) The regular Pakistani forces should be withdrawn from the State of Jammu and Kashmir, (2) Indian forces should remain along fixed lines and occupy certain advanced strategic positions, and (3) the evacuated territories situated outside of the fixed line should be provisionally administered by existing local authorities, or, if necessary, by local authorities to be designated by the Commission, and should be supervised by observers of the Commission, but remain under the sovereignty of the State of Jammu and Kashmir until the final settlement of the dispute between India and Pakistan.

Therefore, these principles, which were put forward ultimately and which to a very great extent found favour in the Commission, were based upon the idea of the sovereignty of the State, that is to say that it is indivisible, that its parts cannot be taken by invasion, that the Indian forces have the right and the duty of protecting this area and that the invaders must evacuate. That is the crux of the case: the invaders must evacuate the territory and, if it is necessary, there should be local authorities there—not governments but merely local authorities—for the maintenance of law and order under the supervision of the Commission. That was the position, as may be seen from the resolutions that were adopted later.

As a result of these discussions, the Commission, having put to both the Government of Pakistan and the Government of India the various points of view, and in view of Pakistan's objections as set out in the report, at its meeting on 13 August finally formulated the resolution which forms the basis of the Kashmir question so far as the Security Council is concerned. This is the well-known resolution of 13 August which brought about a cease-fire. As I stated a short while ago, the concern of the Commission at that time was to a large extent the establishment of a cease-fire so that the fighting might be stopped. I shall not read out the resolution, as it is a very long one, but there are certain points of it to which I must draw attention. This resolution was referred to in the statement by the Foreign Minister the other day, and I believe that in the interests of clarity and accuracy one ought to draw attention to it.

The representative of Pakistan stated:

The main provisions of this international agreement for a plebiscite are:

(i) Cease-fire and demarcation of a cease-fire line. (Krishna Menon: We have no quarrel with that.)

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(ii) Truce agreement providing, *inter alia*, for (a) withdrawal of tribesmen and Pakistan nationals... (b) withdrawal of Pakistan troops and the bulk of the Indian Army... (c) a plebiscite to be conducted...

This might appear to be of very little importance if one did not know the history of this matter, because this resolution is really conceived in three consecutive parts. The part referring to the plebiscite is not part II but part III, which has very considerable relevance to the whole approach to this problem. Part I is concerned only with a cease-fire. It places responsibility on the High Commands of the Indian and Pakistani forces "to refrain from taking any measures...". I shall not read out the whole resolution. It establishes the cease-fire as between the two High Commands. Part I, paragraph E, is relevant in this connexion :

E. The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

Neither before 13 August nor after 13 August until the present time, as the Council will come to see when we deal with present conditions, has there been any appearance that this has been done by the Government of Pakistan as reflected in the public opinion of Pakistan. This is not to say that the peoples of Pakistan are against the peoples of India, but there has been a campaign of hatred and a campaign of a holy war against India.

Now that the cease-fire has been established, so far as the Government of India is concerned that is an agreement into which it has entered and which should be supervised by an international body of observers.

Part II relates to the truce agreement. The plan of this programme is that first there should be a cease-fire, then there should be a truce agreement and then there should be a third part. Part II is divided into three sections : A, B and C. Paragraph 1 of section A states :

1. As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

That is to say, one of the principles laid down in this resolution was that a material change in the situation had been brought about, and as a result of that it was necessary as one of the first conditions of the truce that there should be a withdrawal of the troops of Pakistan from the territory of Jammu and Kashmir.

The second paragraph states :

The Government of Pakistan will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

Our submission is that there has been no withdrawal of these nationals to the extent that is required in this matter. What are called other armies in Kashmir are under the control of the Pakistan command. They are officered by Pakistan officers, and their administration is under Pakistan control. Therefore, to say that paragraph 2 of the truce agreement has been carried out is not accurate.

The third paragraph states :

Pending a final solution, the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

This is an integral part of the conditions, of the principle for which India asked and which is incorporated by the Commission in its resolution. What is the position today ? I shall deal later with the political conditions, but there are no local authorities. The administration in that area is directly under Pakistan administration through its own officials, and the authorities in Kashmir are controlled from Karachi. So there is no such thing as local administration, much less supervision by the Commission. So, that part also has not been carried out.

Now we come to some of the other more important matters. Section B begins with "When". It states :

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When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in Part II A 2 hereof have withdrawn, thereby terminating the situation which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir, and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of their forces from that State in stages to be agreed upon with the Commission.

That is to say, it is only when the Commission has notified that the tribesmen and Pakistani nationals have withdrawn and, secondly, when the conditions on which we came here, namely, an invasion, have disappeared, it is at that time that the Government of India must withdraw the bulk of its forces. That was the position taken in August. It was something undertaken on the basis of conditions.

Pending the acceptance of the conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain, within the lines existing at the moment of the cease-fire the minimum strength of its forces which, in agreement with the Commission, are considered necessary to assist the local authorities in the observance of law and order.

Therefore, this Part II B is a recognition of the fact that the security of the State is the concern of the Government of India. That is again amplified in the phrase that follows in paragraph 3 :

The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguarded...

They were given the responsibility for law and order and the responsibility for security. What is more, it was a condition that the Indian forces should withdraw only when all others had withdrawn and the reason for bringing the case had disappeared. That is set out in Section B.

In the discussions that have gone on in this Council after this period—1952 and subsequently—these matters have been put on one side. The reason is not hard to seek, because we were confined to one problem, a problem that could be implemented only after this came into effect.

However, so far as the Government of India is concerned, in spite of this condition in Section B, we have withdrawn a considerable part of our forces. There is an army in Kashmir, and, so far as Kashmir—which is not under foreign occupation—and as far as India is concerned, that is the Indian Army. It is the Kashmir Army. It could no more be called a foreign army than the British Army would be called a foreign army in Lancashire. It is a part of the army and the local militia that the Kashmiris are entitled to have. In spite of the fact that these foreign nationals are there, in spite of the fact that the aggression has not been liquidated, we have withdrawn a considerable part of our troops.

The Foreign Minister made some arithmetical calculations and told us that India had 80,000 troops in this area and, what is more, that that constituted one-twelfth of the population. I think that if we applied these mathematics in one place it might be useful to apply them in some other place. There are today forty-five battalions in those outposts around "Azad Kashmir" and there are only half a million people there. Therefore the Security Council can work out the mathematics in that. I am not referring to other areas at the moment ; I am referring to the half million people in what is called the Azad area, where there were, at the time when the Commission was investigating, thirty-two battalions, which have now become forty-five battalions. Therefore, if we face the question of having troops, that is the position.

On this matter, I also wish to submit that Kashmir is the northern extremity of India. The Indian Army is deployed in the various sectors of the country, and this is one area where it has to function, not only for the protection of Kashmir and all that is involved therein but because it is the place where it normally would be located.

If we are to take this into account, then, as I shall point out later, we shall have to

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take into account the divisions of the Pakistan Army that are located about five, ten and twenty miles from our border. That is, if it is right to have the Pakistan Army in Abbottabad or in Murree or in any of these areas, then it is necessary for the Indian Army to be held somewhere. Therefore, the idea that this is an occupation, which is what has been represented to the Council, is a total misnomer.

Then we come to Part III, which is the crucial part. Part III states, and I would request you, Mr. President, to give your very careful attention to this:

> The Government of India and the Government of Pakistan reaffirm their wish that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the Truce Agreement both Governments agree to enter into consultations with the Commission to determine fair and equitable conditions whereby such free expression will be assured.

The commitment about a plebiscite is usually spoken of as though it were the law of the Medes and Persians, but what does it amount to? It amounts to an expression of a wish on the part of the two Governments. The expression of a wish is far less than what may be called an international obligation. However, I do not wish to argue that point. But take the other one, that it should be carried out upon the acceptance of the truce agreement. There has been no truce agreement signed, because Pakistan armies have not vacated and, what is more, there are continued violations.

As I shall point out later, there are large numbers of changed conditions under which it is no longer possible to consider the matter in these terms. So any suggestion that the Government of India—and this is the burden of the apprehension about us, and there is no further charge—has a commitment that it is not honouring, I deny totally. So far as we are concerned, the commitment is for the acceptance of a truce agreement. It is not to take a plebiscite but to enter into consultations. That is a very different thing from doing something.

First of all, there is no truce agreement. Therefore, if number two does not happen, number three is out of court. Number one, the cease-fire, we have performed. Number two is the truce agreement. I have given the reasons why the truce agreement is not being carried out. Therefore, number three means that it is only when number two has been accomplished that number three comes into the picture at all. The character of number three is not just a matter of taking a plebiscite, but that the Government enters into consultations.

This means that the two parties shall enter into consultations in the same way, shall we say, as was arranged in connexion with elections in Indo-China. That is all there is to it. Those consultations have taken place, even without a truce agreement, and nothing has come of them.

Now this resolution was not accepted by Pakistan. We accepted this resolution, and as I told the Security Council a while ago, we had previously set out the principles that should be embodied. While the resolution was not one that totally met our point of view, with a view to resolving the position the Government of India accepted this resolution which was adopted by the Commission on 13 August.

But still there was no cease-fire. The fighting was going on in the northern areas. It was becoming more intense. The Commission reported to the Security Council and made further efforts.

It is essential in reading the document of 13 August, which is a resolution of the Commission, to appreciate that this document should be read along with the assurances given in writing by the Commission to the Government of India, because they form one document. If you like, that is a contract; these are the warranties. This document cannot be regarded as isolated from the context of the assurances given.

Those assurances were set out in a letter that was sent by the Prime Minister of India to the Commission on 20 August 1948. May I say here that the facts of this letter were not private, as is sometimes hinted in some newspapers, between the Commission

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and the Prime Minister. They were published and in the next stage of negotiations, Pakistan and India came to an agreement on the resolution of 5 January Pakistan, if it agreed to that, had cognizance of these conditions. That letter says the following:

On the 17th of August, my colleague, the Minister without Portfolio, and I discussed with you and your colleagues of the Commission now in Delhi the resolution which you had presented to us on the 14th instant. (Krishna Menon: that is, the resolution that had been previously adopted by the Commission and presented to us).

Then, a little further on, it goes on to say:

During the several conferences that we had with the Commission when it first came to Delhi, we placed before it what we considered the basic fact of the situation which had led to the conflict in Kashmir. This fact was the unwarranted aggression, at first indirect and subsequently direct, of the Pakistan Government on Indian Dominion territory in Kashmir. The Pakistan Government denied this although it was common knowledge. In recent months, very large forces of the Pakistan regular army have further entered Indian Union territory in Kashmir and opposed the Indian Army which was sent there for the defence of the State (Krishna Menon: which is envisaged by this resolution).

This, we understand now, is admitted by the Pakistan Government, and yet there has been at no time any intimation to the Government of India by the Pakistan Government of this invasion. Indeed, there has been a continual denial and the Pakistan Government have evaded answering repeated inquiries from the Government of India.

In accordance with the resolution of the Security Council of the United Nations adopted on the 17th January, 1948, the Pakistan Government should have informed the Council immediately of any material change in the situation while the matter continued to be under the consideration of the Council. The invasion of the State by large forces of the regular Pakistan army was a very material change (Krishna Menon: I am sure the Council will agree.) in the situation and yet no information of this was given, so far as we know, to the Security Council.

The Commission will appreciate that this conduct of the Pakistan Government is not only opposed to all moral codes as well as international law and usage, but has also created a very grave situation. It is only the earnest desire of my Government to avoid any extension of the field of conflict and to restore peace, that has led us to retain from taking any action to meet the new situation that was created by this further intrusion of Pakistan armies into Jammu and Kashmir State. The presence of the Commission in India has naturally led us to hope that any arrangement sponsored by it would deal effectively with the present situation and prevent any recurrence of aggression.

I would like the Council to take note of that sentence, that is to say, the fact that the Commission was intervening in this matter and brought this resolution to us. They had reason at that time to think that the aggression would be terminated, but nothing of that kind happened. The letter continues:

Since our meeting of the 18th August, we have given the Commission's resolution our most earnest thought. There are many parts of it, which we should have preferred to be otherwise and more in keeping with the fundamental facts of the situation, especially the flagrant aggression of the Pakistan Government on Indian Union territory. We recognize, however, that, if a successful effort is to be made to create satisfactory conditions for a solution of the Kashmir problem without further bloodshed, we should concentrate on certain essentials only at present and seek safeguards in regard to them.

There then follow the safeguards which are very material:

(1) That paragraph A.3 of Part II of the resolution should not be interpreted, or applied in practice, so as (Krishna Menon: that is the paragraph with regard to local authorities:

(a) to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops, (Krishna Menon: that is to say, that neither the invasion by Pakistan nor the fact that they evacuated it under orders from the Commission would in any way affect the sovereignty of the Jammu and Kashmir Government. That was the condition we made.),

(b) to afford any recognition of the so-called 'Azad Kashmir Government', or

(c) to enable this territory to be consolidated in any way during the period of the truce to the disadvantage of the State (Krishna Menon: That is what has happened since: the portion being administered from another place. It then goes on—).

(2) That from our point of view the effective insurance of the security of the State against external aggression, from which Kashmir has suffered so much during the last ten months, was of the most vital significance and no less im-

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portant than the observances of internal law and order, and that, therefore, the withdrawal of Indian troops and the strength of Indian forces maintained in Kashmir should be conditioned by this overriding factor. (Krishna Menon: that is to say, we emphasized the point that we have the responsibility for security). Thus at any time the strength of the Indian forces maintained in Kashmir should be sufficient to ensure security against any form of external aggression as well as internal disorder.

(3) That as regards Part III (Krishna Menon: that is, ascertaining the will of the people), should it be decided to seek a solution of the future of the State by means of a plebiscite, Pakistan should have no part in the organization and conduct of the plebiscite or in any other matter of internal administration in the State.

Therefore, it was not as though there were two peas in a pod and two people with some equal jurisdiction over this. The plebiscite was merely a concession, merely a method, whereby some peaceful settlement could be brought about. Therefore, we made the reservation that this should be done. Then the Prime Minister went on to say:

If I understood you correctly, A.3 of Part II of the resolution does not envisage (Krishna Menon: this is the Commission's position being taken) the creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact, you made it clear that the Commission was not competent to recognize the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.

I ask the Council to take notice of this; that is, the Commission says that they have no authority to recognize any sovereignty other than that of the Jammu and Kashmir Government. In the face of that, how can the Security Council contemplate with equanimity the position that part of the territory has been invaded, usurped, annexed and assimilated? The next paragraph says the following:

As regards paragraph 3(2), the paramount need for security is recognized by the Commission, (Krishna Menon: that is to say, the sovereign function of defence is placed upon India) and the time when the withdrawal of Indian forces from the State is to begin, the stages in which it is to be carried out and the strength of Indian forces to be retained in the State, are matters for settlement between the Commission and the Government of India.

That is to say, there is no mention of the words "the Government of Pakistan" so far as that is concerned.

The next paragraph reads as follows:

Finally, you agreed that Part III, as formulated, does not in any way recognize the right of Pakistan to have any part in a plebiscite.

Then the Prime Minister concludes:

In view of this clarification (Krishna Menon: these are all clarifications given by the Commission, and I shall read out the confirmation in a moment) my Government, animated by a sincere desire to promote the cause of peace and thus to uphold the principles and prestige of the United Nations, have decided to accept the resolution.

To complete this chapter, may I now be permitted to read the acceptance of the Commission:

I have the honour to acknowledge the receipt of your communication dated August 20, 1948, regarding the terms of the Resolution of the United Nations Commission for India and Pakistan which the Commission presented to you on the 14th of August 1948.

The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation, it being understood that as regards point (1) (c) the local people of the evacuated territory will have freedom of legitimate political activity.

In this connection, the term 'evacuated territory' refers to those territories in the State of Jammu and Kashmir which are at present under the effective control of the Pakistan High Command.

The Commission wishes me to express to Your Excellency its sincere satisfaction that the Government of India has accepted the resolution and appreciates the spirit in which this decision has been taken.

Therefore, here are assurances given and discussed for a very long time; clarifications sought and given; and, in categorical terms, the letter signed by the Chairman of the Commission on 25 August, which completes the resolution of 13 August. Therefore, I submit that the Security Council in considering this resolution—I will come to the next one in a moment—has to read it along with these clarifications and assurances.

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Otherwise, the Security Council has said to us that we are to accept one part of what the Commission says, and not the other. Our acceptance of this document was along with those clarification. Pakistan did not accept this.

I should also add that whatever is said here also refers to the northern territories—that is to say, the territories where, as I shall point out later, owing to the instrumentality of the local commanders, who are not local people at all, affiliations have been received and a considerable amount of fighting has taken place. In regard to these northern territories, the Prime Minister said:

> The authority of the Governemnt of Jammu and Kashmir over this region as a whole has not been challenged or disturbed, except by roving bands of hostiles, or in some places like Skardu which have been occupied by irregulars or Pakistan troops. The Commission's resolution, as you agreed in the course of our interview on the 18th, does not deal with the problem of administration or defence in this large area. We desire that, after Pakistan troops and irregulars have withdrawn from the territory, the responsibility for the administration of the evacuated areas should revert to the Government of Jammu and Kashmir and that for defence to us.

That is to say, in regard to these problem territories of Baltistan and Gilgit and all those areas, there is a difference—a difference between the local authority issue in west Kashmir, where it was suggested there were some local movements, and this one. And the Government also said:

> The only exception that we should be prepared to accept (Krishna Menon: they did not accept it, but they were prepared to do so) would be Gilgit. We must be free to maintain garrisons at selected points in this area for the dual purpose of preventing the incursion of tribesmen who obey no authority and to guard the main trade routes from the State into Central Asia.

India has considerable trade through these areas into the Central Asian region and the lower provisions of Asia, of Russia, of China and of Tibet.

In answer to this northern areas question, similarly, the Commission agreed. I shall read out the paragraph which relates to this agreement:

> The Commission wishes me to confirm that, due to the peculiar conditions of this area, it did not specifically deal with the military aspect of the problem in its resolution of 13 August 1948. It believes, however, that the question raised in your letter could be considered in the implementation of the resolution.

The Commission, therefore, tries to make a further effort, because the cease-fire could come about only if there were agreement of the two sides. It meets in Geneva in September, prepares its procedure, and then reports to the Security Council in Paris. Then it proceeds to the peninsula and produces a series of proposals on 11 December. And those proposals of 11 December, which were passed by the Commission in its private sitting, were communicated to the Governments of India and Pakistan. India accepted them on 23 December, and I believe that Pakistan accepted them on 25 December.

So, by 25 December, we have a situation where the resolution of the Commission, as passed in its private sitting on the 11th, is accepted by both Governments, and that becomes the resolution of 5 January. In this matter a different procedure was followed. That is to say, the resolution was first set up by the Commission and put to the two Governments; their agreement was obtained, and it was formalized.

This is a convenient moment to point out how we stand with regard to this, because these are the two resolutions to which we have given any agreement at all—that is the resolutions of 13 August and of 5 January. My submission is that so far as those resolutions are concerned they stand by their texts and by their intention. That is the first point. The second point is that they should be read together and their sequence taken into account. The third point is that these resolutions are also to be read along with and to be conditioned by the assurances. I have read out to the Council and the other assurances that are given by the Commission with regard to the resolution of 5 January, which are printed in *aide memoires* which were submitted to the Commission

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and which are in the records of the Security Council. It is stated therein:

The Prime Minister emphasized, (1) that if the Government of India were to accept the Commission's plebiscite proposals, no action could be taken in regard to them until Parts I and II of the Commission's resolution of 13 August had been fully implemented (Krishna Menon: that is one of the things that is said in regard to the resolution of 5 January),

(2) that in the event of Pakistan not accepting these proposals, or having accepted them, not implementing Parts I and II of the resolution of 13 August, the Government of India's acceptance of them should not be regarded as in any way binding upon them (Krishna Menon: I shall come back to this in a moment.).

(3) Part III of the Commission's resolution of 13 August provided 'that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end, upon acceptance of the truce agreement, both Governments agree to enter into consultation with the Commission to determine fair and equitable conditions whereby such free expression will be assured.'... While the Government of India adhered to their position in regard to a plebiscite, they had pointed out that, in view of the difficulties of holding a plebiscite in present conditions in Kashmir, other methods of ascertaining the wish of the people should also be explored. The Commission had itself recognized the difficulties of carrying out a plebiscite in Kashmir. The Government of India feel that the exploration of other methods should not be ruled out.

For the present purposes I am satisfied to put in these *aide memoires* for the information of the Security Council. If, in further debate, there should be any challenge upon them, then I would have to argue what is in those *aide memoires*. But the main thing is this:

(2) that in the event of Pakistan not accepting these proposals, or having accepted them, not implementing Parts I and II of the resolution of 13 August—

and our submission is that Parts I and II of the resolution are not implemented, and that therefore the Government of India cannot be regarded as being bound by those resolutions, because that is the consecutive character. It is a concertina resolution. Unless (A) is accomplished, (B) cannot be undertaken; unless (B) is accomplished, (C) cannot be undertaken. Apart from what (C) means—something to which I have referred—(B) has not been implemented, and so unless there is a truce, unless there is evacuation, how does the Security Council even contemplate the idea of anything in the nature of an assessment of the will of the people in the occupied areas of Pakistan, with forty-five battalions of these forces, the entire army of Pakistan, right up on our frontiers? And when I deal with the military preparations in that area, the Council, I hope, will begin to sit up and take notice. That has nothing to do with the welfare of those people. The people in the "Azad" areas, the people in Gilgit, the people in Chitral and the people in Baltistan—they do not go around in aeroplanes, and the Council will be bound to enquire what is the purpose of the airfields and airstrips in these areas.

I think it would be regarded as unfair to the Council if I did not refer to the fact that this resolution of 5 January deals, in the main, with the implementation of Part III—that is, the resolution of 13 August, which deals with the cease-fire and the truce and leaves the plebiscite in one paragraph. What the resolution of 5 January does is to elaborate the ways in which a plebiscite should be taken. Practically the whole of this resolution deals with the methodology of this plebiscite, but it is not as though it is laid down categorically. There are so many "ifs" and "whens" in this which are integral to the commitments made by India. The Council will bear with me if, on behalf of the Government of India, I try to clarify this matter, because it is a serious thing to tell a Government that it is not honouring its commitments; and it can only honour the commitments which it has undertaken. A commitment does not become a commitment by an assumption of what has gone before.

Now, what is this resolution of 5 January 1949? It reads as follows:

The United Nations Commission for India and Pakistan, having received from the Governments of India and Pakistan, in communication dated

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23 December and 25 December 1948, respectively, then acceptance of the following principles which are supplementary to the Commission's resolution of 13 August 1948 :

1. The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

As everybody will notice, it says "will be decided"—a simple futurity. It does not say "shall be decided".

The next paragraph governs this one; paragraph 2 of this resolution of 5 January governs the first one :

2. A plebiscite will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in Parts I and II of the Commission's resolution of 13 August 1948 have been carried out (Krishna Menon: and that "when" still remains "when", And I shall submit later on that the "when" not only remains so, but it is no longer possible).....and arrangements for the plebiscite have been completed.

Paragraph 3 of the resolution deals with the functions of the Plebiscite Administrator.

I must say a word about the Plebiscite Administrator. Our position in this matter was that we did not like it, but that there was really no objection to a man working out the details if he wanted to, so that he could put them into operation when the time came. We had no feeling about people coming into the country or seeing things for themselves and so, when it was pressed upon us, we agreed to a Plebiscite Administrator being appointed subject to all this expert advice.

Now we come to paragraph 4 :

(a) After implementation (Krishna Menon: and I ask the Council to take note of these words) of Parts I and II (Krishna Menon: the previous paragraph said 'when') of the Commission's resolution of 13 August 1948, and when the Commission is satisfied that peaceful conditions have been restored in the State, the Commission and the Plebiscite Administrator will determine in consultation with the Government of India (Krishna Menon: not with the Government of Pakistan) the final disposal of the Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

There is one verbal implementation which I should like to make. It has always been understood that the expression "disposal", used in this resolution, means, to the Government of India, "disposition". The Council will see that that is its meaning if it looks at the word "disposition" used in other places.

So paragraph 4, again, reiterates this fact, that nothing can happen until Parts I and II have been carried out. Part I has been signed, although there have been serious breaches of the cease-fire—one of them of a serious character which developed into a miniature battle.

Hence, the whole of the resolution of 5 January is concerned with the minutiae of the plebiscite, but even in that, it makes it quite clear at what time it will be taken. This is a plan of action. It is a blueprint. But you cannot operate it, you cannot pull the trigger on it until Parts I and II are in operation. Part I is in operation ; therefore, there is no fighting—and, so far as we are concerned, it will remain in operation. But Part II is not in operation ; and, what is more, the conditions that could have made Part II in operation have been breached before this without the knowledge of the Security Council and without conveying the information, and afterwards, and is being breached continually. In fact, a division of Kashmir, which is wrong both *de jure* and *de facto*, has taken place. This is a sheer violation of all the commitments made by the Government of Pakistan to the United Nations. That is the limit of our commitments in this matter.

That finishes the first part of my submission to the Security Council ; that is, it takes us to what our commitments are. So far as I can remember, three or four resolutions were adopted by the Security Council before 13 August 1948 and 5 January 1949. I think that we should consider those two resolutions as one plan. The Security Council will appreciate, when it has gone through the papers and pondered, that all

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the previous resolutions are absorbed by these; the resolutions of 13 August and 5 January really take into account all the previous resolutions. It is the submission of my Government that all the resolutions which may follow can only flow from these. Therefore, the binding conditions, whether they bind us or whether they are conditional bindings, or provide for denuciation and escape, all have to be taken into account. The only things that bind us in regard to Kashmir, so far as the Security Council and the world are concerned, are these resolutions with all the conditions I have mentioned. And I would say that, while we are not a member of the Security Council, as a Member State which has earnestly tried to discharge its solemn obligations to the international community, the Council will think many times before it is led even to think, let alone express a view, that the Government of India has in some way tried to get round international commitments.

I shall try, in the course of my next submission, to deal with the matter of what a commitment is, what a decision is, and what a recommendation is.

One gathers the impression that there is some desire to know about the Constituent Assembly since, in our view erroneously, the Council seems to persist in the idea that this is some world-shaking matter. I must confess that the atmosphere of crisis has been created, or some sort of D-Day or zero hour, for 26 January. But whatever may be the background which we are able to understand, we have the duty to point out what the facts are, and I have therefore decided to change the arrangement of my presentation. Logically, this should come much later, but in order to suit the convenience of the Council, and because, I want to tell you, I am not in a fit condition to sit through a third session continuously, I have changed the order of my presentation. Therefore, I propose now to take up first of all the claim—and by claim I mean the title or the argument, or the case, or whatever it may be, that Pakistan may have for Kashmir. Secondly, I shall deal with the accession, and then with the Constituent Assembly, because if I do not deal with accession, the Constituent Assembly becomes unintelligible. I shall be able to do all that this afternoon. I think it is very necessary that this political, social—if you like, logical—aspect of this question should be understood.

From what we have heard in the Security Council, from all the discussions, the debates, the writings and everything else that goes on in Pakistan and which have been communicated in the views expressed by the foreign Press, there is some idea that over and above the Security Council decisions there is a basis for the affiliation of Kashmir to Pakistan, that there is some natural affinity.

What are these considerations? We accept some of these considerations, but we argue that they are either equally or more applicable to us. For the moment, I am putting on one side whatever title we may have derived. I am talking of the extra-legal considerations and the extra-security considerations. The first of these is geographical contiguity, which is commonly accepted by all of us.

The answer to that is that Kashmir has a frontier with Pakistan on the west and slightly to the north-west. It has a frontier with India and communications with India. It has a frontier with Russia in Sinkiang and China and Tibet. Therefore, Kashmir has a large number of frontiers.

Geographical contiguity is very often governed to a considerable extent by the historical past, and Kashmir's economic relations and commercial relations have been very much more with India than with Pakistan. This did not arise in the old days, because it was one country. Therefore, if it is a question of a common frontier and of contiguity, it is not as though the accession of Kashmir to India is the accession of some far off island which is separated from the rest of our territory. To put it at its worst, contiguity is a common factor.

The other matter is one on which my Government will not in any circumstances

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alter its position. We refuse to recognize what is called the "two-nation theory". India is a secular State, where any person, Hindu, Muslim, Christian, Buddhist, or whatever he is, is an equal son or daughter of India, with rights of citizenship guaranteed by our Constitution. India claims Islam as one of the Indian religions, just as it does Christianity or any other. Therefore, we refuse to accept the thesis that because the population of a particular area is of one religion, some political issue is involved.

We are not a theocracy, we are a modern, secular State governed on democratic principles, where the right of citizenship is based on residence, upon domicile, and upon loyalty to the Constitution. Therefore, we totally disregarded this argument with regard to Muslim majorities and Hindu minorities, and everything else. Some of you may say that that is a very nice view, but it is not how the world is run. Then how do we look at it? Pakistan has a population—I am subject to correction—of between seventy and eighty million, because I believe that their census, like ours, was taken in 1951, and our population increases by one and a half per cent a year. Roughly speaking, Pakistan has a population of somewhere about 75 million: Pakistan is in two parts and is separated by the Indian mainland extending for about 1,000 miles.

The proximity of Kashmir, ethnically and otherwise, is to West Pakistan, and I have no accurate figures of the Muslim population of West Pakistan. However, at the very outside, it cannot be more than about 30 million, and there are nearly 50 million Muslims in India. If our Government were to accept the view that because people are Muslims, they should belong to another State, I ask the Security Council, in all conscience, to consider what would happen to the considerable Muslim minorities in my country. They are distributed over the whole of our land. In some places they are sparse minorities in some places they almost form the majority in the area. Are we to say that they are second-class citizens? We refuse to accept that position in India. We have almost as many Muslims in India—and I qualify the word "almost"—as in the whole of Pakistan. We do not regard it as either a foreign culture or a foreign religion. What is more, whether it be in Pakistan or in India, whether they be Hindus, Muslims, Christians, or whatever they are, their ancestries are pretty much the same. One religion does not mean one race, nor does it mean that there is a separation as between the two religious groups in that way.

We have this considerable Muslim population inside India, but it is not regarded as a minority. There is no question of the Muslims having any special sheltered treatment; they would not have it. They are equal citizens in our country, taking their place in our Government, in our public services, our industry, in our agriculture, and in everything else, just like everybody else. The secular State is one of those ideas and one of those possessions which we regard with great jealousy, because in this world the rivalry of religion and the amount of violence that has been carried out in the name of religious loyalty have been to an extent that should shame humanity at any time. Therefore, we are not prepared at any time to accept any view, whatever resolutions anybody may pass, that there is any justice or anything that a modern community can entertain in this idea of what was spoken of in the address of the Foreign Minister, who attributed it to Lord Mountbatten, about what is called communal representation or communal affinity, or something of that kind.

The whole connexion of Kashmir is, as I said a while ago, with the mainland. Its capital was founded in the third century B.C. I am not an antiquarian, I have not studied it, but the history of Kashmir is a continuous one. It has been ruled by Hindu kings, by Muslim kings, by Sikh kings, by Afghans, and by all kinds of people, but it

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has always been part of the mainland of India. Therefore, these are extra-constitutional, extra-legal, extra-United Nations considerations, by which I mean they are considerations which are outside the principles of the Charter, on the one hand, and which do not come into any of the resolutions or any of the decisions which we have made. However, it was necessary for me to put them forward because it was on them that the other argument was based, that the accession was wrong, that we got it by force or by fraud.

What, then, is the interest? Mr. Zafrullah Khan said that there are strategic interests. Well, I would argue first of all that the strategic interests of a country should not always be placed in the picture when we are talking about the fortunes of the people in that country. But let us leave that alone. What if there are strategic interests?

The strategic interests of a country like India, with its big land mass in the Indian Ocean, are at least as vital in the world as the strategic interests of its neighbour, and we are not aware of any strategic interests in our mind which are inimical to the strategic interests of Pakistan. Therefore, this strategic interest, which was advanced by the former Foreign Minister, in our opinion, is one that should not appeal to the Security Council.

What is the actual position with regard to this evaluation? I outlined briefly this morning the relation of Kashmir to India, that is, that when the British left India these States were to accede to one country or to the other, to one Dominion or to the other. That was the position. That way was prescribed in the Constitution, and it would be of interest to know that the way of accession was not thought out after the partition. It is contained in the Act of 1935 passed by the British Parliament. The way of accession is for the Head of the State to submit an instrument of accession and for the Government of India to accept it or the Government of Pakistan to accept it. So an offer of accession and an acceptance completes accession. That creates a union within a federation.

On 26 October the Maharaja of Kashmir, who was the Head of the State—I am now dealing with the constitutional necessities—submitted to the Governor-General of India—in the constitution of that day the Governor-General of India was the Head of the Government, but not today; he was the representative of the British Crown because at that time we were an independent British dominion—an instrument of accession. The text of it is set out in Document 4. I will not read it because it is a legal document in conformity with what is said in the Constitution. I will read it if it is challenged, but otherwise I will not do so. It is set out in the Constitution, in the Act of 1935, as amended. That instrument was sent over and on the 27th, Lord Mountbatten, Governor-General of India, accepted the accession. Lord Mountbatten said:

> I do hereby accept this Instrument of Accession.
>
> Dated this twenty-seventh day of October, nineteen hundred and forty-seven.

The accession is complete. We should look at these caveats more frequently than we have done. It has been suggested time and again that there is something like provisional accession, that you can go in and come out.

This is a very serious matter for us, a serious matter not only for India but for every country seated around this table. We are a federation; we are not a confederation, and the units that accede to federation stay in once they have acceded. There is no provision in our Constitution, there is no contemplation in our Constitution for the secession, and that is not peculiar to us. Our institutions are largely derived from Anglo-Saxon parliamentary institutions which affected the constitutions of the countries of Western Europe and North America. In these countries there is no provision for secession at all. That is to say, under the Government of India Act, as in force on 15 August 1947, the relevant extract of which is in

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document 4, it has been set out how a State should accede. Once that accession has taken place there is no provision in this to go out. The only provision there is in regard to variation. A ruler may, by a supplementary instrument executed by him, and accepted by the Governor-General, vary the instrument of accession of his State by extending the functions which, by virtue of that instrument, are exercisable by any dominion authority in relation to the State. But, of course, the Government of India also has to agree. If the two sides agree, it is possible to vary the conditions of the relationship between the constituent unit in the federation and the central Government. That is all that is permitted by the law. Therefore, when anyone suggests to us that there should be a divorcement of this territory from our federation, we are being asked to act against our constitutional procedures. Now I freely admit that when the municipal constitutional procedures, as your learned colleague will advise you, are against well-known principles of international law, international law prevails.

But in this particular matter the Constitution of India was presumed to be known to the United Nations when it was admitted as a Member. These provisions were there even before we were independent. Also, it is well-known to international law that in a federation of our kind there is no right of secession. I want here to refer only to two instances. One is the well-known instance of the United States and it is possible to quote case after case to show where the constituent States of the United States have a greater degree of sovereignty than the units of our federation—one can say this without going into domestic affairs—because they have residuary powers in those States. But it has gone to the Supreme Court of the United States time after time. I think the leading case in this matter is a case called Texas *v.* White, where the Supreme Court ruled once and for all that there was no such right vesting in a State. The issue was not whether they wanted to secede, but that was the point that had to be decided. For our purposes it is better, even more, to go into the general principle of secession. If you want me to, I can quote it. But any text-book on this subject will tell you that in a federation there is no right of secession. Our Constitution in this sense is different from the constitution of some other countries. In Texas *v.* White, the Supreme Court settled the constitutional question. The book *Studies in Federalism*, edited by Bowie and Friedrich, states that "the Supreme Court settled the constitutional question of the right of secession, as it had in fact been settled by the Civil War" (page 789).

I did not want to refer to that because the Civil War was not exactly a judicial process. But, at any rate, it certainly showed the determination of a people to retain the unity of their country and which side really asserted itself. But in this case the Supreme Court said :

> When, therefore, Texas became one of the United States, she entered into an indissoluble relation.

That is a provision of a constituent unit in the federation. In other words, a federation does not recognize divorce. Once it is in, it is a sacrament; it cannot be separated; it is an indissoluble relation. The Supreme Court continued :

> All the obligations of perpetual union and all the guarantees of republican government in the Union attached at once to the State.

That is to say, Texas by the fact of its admission, became an American State. It is not only Texas, but it is America, the United States of America. The Supreme Court continues :

> The act which consummated her admission into Union was something more than a compact.

A State, in my submission, can no more banish itself from a federation than an individual can banish himself from a State. He has no right of divorcement from the community to which he belongs. There

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may be rules of exile in a country, but there is no way in which a man can disqualify himself except by committing a crime. The act which consummated the admission of Texas into the Union was something more than a compact; it was not a contract and therefore could not be dissolved. The Supreme Court continued:

> It was the incorporation of a new member into the political body. And it was complete and final... There was no place for reconsideration or revocation, except through revolution or consent of the States.

It is possible for the Parliament of India, in the exercise of its sovereignty and according to its constitutional procedures which would require the consultation and the assent of the constituent State to separate it, but that is the kind of sovereignty that Professor Dicey spoke of when he said that a Parliament can do everything but make a man or woman. But that sovereign right is not what is at issue here. The issue is: What was the formal relationship which was contingent, which was conditional and which could be altered? Even if it was so, then a dispute about territory, to which the previous representative in this Chair, Mr. Gopalaswami Ayyangar, referred and refuted, would have been very simple; but there is no such thing. I would refrain from quoting the general principles on this subject, but I want to refer to another instance, particularly in order that the representatives of the United Kingdom and Australia can come nearer to this problem.

Australia has six States. It is not a confederation. But power is much more dispersed, shall we say, than in Canada—and Western Australia, at one time, had ideas of separation. A plebiscite was taken. Some 130,000 people— in round numbers— voted for separation, and 30,000 people voted for remaining in. The plebiscite, then, was in favour of separation. That was before the Statute of Westminster, and therefore any alteration of the law would require the consent of the British Parliament. It went to Parliament, and the Parliament appointed a joint committee of the two Houses which sat in judicial session on these matters. The case was argued by counsel on both sides, and the Parliamentary view about this was recorded in the joint committee's decision—that Western Australia could not secede. At any rate, if it were to secede, the decision had to come from the Australian Parliament—and then it would not be secession, but it would be separation.

The right of secession, then, does not exist in our federation. This may be abstract law, but it is of very great importance to us. And I want to ask the members of the Council to address their minds to what would happen to what is now called India if this principle were not strictly enforced.

I have mentioned that there were 562 States before the British went away. A handful of them are part of Pakistan; the remainder are part of the Indian Union. If every local Maharaja had a different idea the next morning and started seceding, our unity would disappear in no time. What is applicable to Kashmir would be applicable to every State that has acceded if once we said that the accession is not permanent but provisional.

Therefore, the Government of India, out of considerations of security, out of considerations of international law and the law of India, and the law that has been given to her by the British Parliament, cannot ever accept the idea that accession is anything but an indissoluble bond. When Kashmir acceded, that matter was finished. Therefore, there is no such thing as going out. In this country, as I said, they decided in other ways, and now it is being confirmed by the law courts of the country. Accordingly, any suggestion to us that the accession is provisional or temporary is very wrong.

We might then be asked: What is the meaning of the letter written by the Earl of Mountbatten, when he was Governor-General of India, to the Maharaja, about consulting the wishes of the people? I do not want to evade this question.

As I pointed out, there is a document of accession. There is an offer and there is

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an acceptance. That concludes the arrangement. I will not call it a contract—but that concludes the arrangement. The letter of the Governor-General is a separate document and has nothing to do with this. What does that document do? It makes no guarantees. It expresses the wish of the Government of India—not as part of the law, but as part of a political policy. We are entitled to ask that the Security Council should make a distinction between what is a policy of a Government at any time and the constitutional law or the principles of international law that govern these matters.

Therefore, when the Governor-General of India wrote to the Maharaja and said, "In accordance with the general policy that we follow, we will consult", he did not say anything about a plebiscite; he said that the wishes of the people would be consulted. I shall deal with this more in detail when we consider the question of the plebiscite. Whatever we may have said in that way has, first of all, nothing to do with Pakistan and nothing to do with the international community; it is something between the people of Kashmir and ourselves. It is a pledge to them and to nobody else.

The Foreign Minister of Pakistan has quoted a telegram in which my Prime Minister says to the former Prime Minister of Pakistan, Mr. Liaquat Ali, that this is a pledge to all the world—a pledge to you and everybody else. I am going to deal with those telegrams of the Prime Minister, because they must be read in the context in which they were sent. And we have always communicated this view to the Government of Pakistan.

In the telegram of 31 October 1947, from New Delhi to Karachi, the Government says:

> Kashmir's accession to India was accepted by us at the request of the Maharaja's Government and the most numerous representative popular organizations in the State, which is predominantly Muslim. Even then, it was accepted on the condition that, as soon as the invader had been driven from Kashmir soil and law and order restored, the people of Kashmir would be able to decide the question of accession.

That is why the Constituent Assembly question becomes important—because, while we have no international commitment in this matter, we have a moral commitment to the peoples over there—that commitment in the context of things that appeared. Therefore, when we consider this question of consulting the wishes of the people, the plebiscite and so on, we should bear in mind that there are two aspects of it. One is the aspect of whether there is a commitment by the Government of India to other parties than the Security Council of the United Nations, and the other is the aspect of whether there is a commitment that has come in the context of the United Nations. And that is where the consultation of the people has arisen.

First of all, the reason for stating this wish was the previous history of Kashmir. Kashmir was ruled at that time by a Maharaja who was far from having given it a popular Government. The leaders of the national movement were in prison. The national movement in India was in close association with it, and the leaders of the Indian national movement have shared the prison life of these people. So this great national movement, which was kept under suppression by the Maharaja,—was really Kashmir in a political and social sense. And a Government like the Indian Government, which had installed itself after a peaceful revolution, could not feel happy in merely accepting the accession—not for legal reasons, but political reasons—of the Maharaja. It therefore consulted what was at that time the only widespread movement in the place—the National Conference.

While we are on this subject, it is well to say that the national movement in Kashmir started as a communal movement. It was first called the Muslim Conference, and then, as soon as it became mature, it dropped this sectarian outlook and made itself national. For twenty or twenty-five years, they struggled and endured all the rigours of opposing the law, and went in and resisted the Maharaja's rule.

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Therefore, when we accepted this accession, we did the best thing we could. And after that, if conditions had not been what they were, that is to say, if the country had not been invaded, if there had not been all that followed in the wake of the invasion, if the country had not been divided by the cease-fire line into the occupied part and the free part—the part occupied by Pakistan and the part that is free in India—then it would have been possible to do something else.

It is in that context that the telegram to which the Foreign Minister of Pakistan has referred was sent to the former Prime Minister of Pakistan. And I would request the Security Council to read the text of that telegram, because it was more a message from the heart than from any political deliberations. It was a time when India and Pakistan were emerging from the background of the great mass slaughter on the north-western frontiers and it was hoped on both sides to prevent any further spread of this bloodshed.

If the telegram is to be quoted, the next paragraph should also be read. The Foreign Minister of Pakistan quoted a paragraph—and it is accurate as far as it goes. But I submit that the Security Council, in looking at the document, has to look at the previous and the succeeding paragraphs, if necessary. Now, this is what the succeeding paragraphs say:

> I have no doubt that you realize that the raiders from the Frontier Province or along the Murree Road came from Pakistan territory and that it is the easiest thing in the world to stop them at the two bridges which connect Pakistan territory with Kashmir.

In other words, it was an appeal to him to stop the bloodshed at these bridges. They were not so prevented, and the equipment of arms, including artillery and automatic weapons, bears witness to the help being given them.

The telegram goes on:

> We are credibly informed that regular officers of the Pakistan Army are advising these raiders. Even now it should be easy for your Government to stop the passage of them and their supplies to the Kashmir territory.

Now, the statement made by Mr. Khan Noon should be read in the context of the telegram of 31 October 1947 from the Prime Minister of India and of the reply by the Prime Minister of Pakistan.

At the Security Council's seven hundred and sixty-first meeting, I said that Mr. Khan Noon had referred—not only as regards the subject with which I am now dealing, but also as regards other subjects—to private conversations between the Prime Ministers. I asked the Council's indulgence—and it was freely given—so that I might have an opportunity to consult my Prime Minister. At that time, I did not have before me the full text of the telegram in question. I have now obtained the necessary information from my Prime Minister. This is what he says:

> As far as we can find out, Sir Feroz Khan Noon's references to statements by me all relate to certain messages sent by me to Liaquat Ali Khan within the first ten days or so of the invasion of Kashmir in 1947.

I would ask the Security Council to place itself within the context of that background. I continue to read from my Prime Minister's communication to me:

> During those days, we had no knowledge of the part that the Pakistan Army was playing in this invasion—that is, obviously helping the raiders. It was later, in November, that we came to know of the presence of the Pakistan Army itself in Kashmir, because our troops came into contact with them there. You will notice (Krishna Menon: And here the Prime Minister is referring to me) that, at the time that I had suggested to Pakistan to make a joint request to the United Nations to undertake a plebiscite in Kashmir, Pakistan did not accept this, and in fact continued its aggression for a year subsequently—that is, throughout 1948.
>
> We went to the Security Council to avoid all-out war with Pakistan. Later, the fact of Pakistan's aggression came out clearly. The military situation in Kashmir State began to be unfavourable to them.
>
> The resolution of the United Nations Commission of 13 August was agreed to by India, subject to clarifications. Pakistan did not agree to this resolution and continued the aggression. Owing to a further deterioration of the military situation, they agreed to the United Nations resolution

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of 5 January, which supplemented the 13 August resolution.

Now, this goes back to a very early period of the tumult. It was our hope that Pakistan would join us in settling the matter.

At this point, I should like to say something that I shall have to repeat later. If an offer is made and it is not accepted at the time it is made, it cannot be held for generations over the heads of those who made it. It is quite true that at that time we told Pakistan, "Let us go to the United Nations together and ask for a plebiscite." They did not agree. When they did not agree, that offer lapsed. They cannot come here nine years later and say, "You mentioned the word 'plebiscite'." That is the position. We have made many offers to Pakistan at various times. Some of these offers may be reconsidered, if necessary, when the time comes. But, if an offer made to an opposing party is not accepted within a reasonable time, it cannot be maintained that it is still an open offer. The offer terminates when it is not accepted. In very many cases, we have said that explicitly; where we have not done so, it must be taken as the normal state of affairs.

This is the position as regards accession. There can be no conditional accession. That would be against our constitutional procedure. It would amount to denying citizens of India the right to live in a free country, where they have the fundamental guarantees of freedom. It would amount to making those citizens run the risk of having to live a different kind of life elsewhere—a risk which we are not prepared to have them run.

It has been said that we obtained this accession on the one hand by force and on the other hand by fraud. In anything that I shall now say on the question of force, I do not wish to be understood as referring to the word "fraud". So far as force is concerned, I would say this: Force did play a part in this accession. Force affected the timing so that the Maharaja had no alternative but to ask for protection. Apart from any questions of accession, apart from any questions of the law relating to this matter, I would ask the Security Council this question in all conscience: If a State is being invaded, is it not the most natural thing in the world for that State to ask a neighbour to come to its protection? Is such a request to be regarded as the imposition of force from outside? We used no force in connexion with the accession. I believe that the Security Council is familiar with communications in this respect from General Lockhart, the British Commander-in-Chief of our Army, and from Air Marshal Elmhurst, the head of the Air Force at that time—in any case, I shall circulate these communications. These officers were commissioned by His Majesty the King of England, and were on temporary service with us. They had nothing to expect from us by way of reward, but they categorically stated that any suggestion that there was any conspiracy in connexion with this accession was entirely wrong.

Thus, I repeat, we used no force. The only force we used was that necessary to repel the invader—and I believe that that is a force which we are entitled to use, and indeed are enjoined to use, under the Charter.

With regard to the other suggestion that some sharp practice was involved, I set out this morning the conditions of the standstill agreement. Had the State concluded the standstill agreement with us, we should immediately have become responsible for its foreign affairs, defence, and communications—but, as I said this morning, this matter was interrupted by the invasion. The Security Council will recall the chronology of the invasion which I read out this morning.

Therefore, it can be seen that it was not we who used force—or that other word which I do not want to use. The accession was legal. As I have already said, at one time, before the Maharaja had made up his mind, we asked the Governor-General to tell him to accede to Pakistan if he so wished. Lord Mountbatten told the Maha-

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raja categorically that we would not regard such accession to Pakistan as an unfriendly act. But that was before all these events which I have described took place. Thus, there was no question of our trying to inveigle the Maharaja into any kind of accession.

Questions may be asked regarding the right of the sovereign—that is, the Prince—to make the accession for the State. In this respect, we have the very reputable and, in this particular case very helpful authority of Mr. Jinnah. Mr. Jinnah was President of the Muslim League and a founder of Pakistan. He said the following on 17 June, before he became Governor-General of Pakistan:

> Constitutionally and legally, the Indian States will be independent, sovereign States on the termination of Paramountcy, and they will be free to decide for themselves to adopt any course they like. It is open to them to join the Hindustan Constituent Assembly (Krishna Menon: that was what they called us) or the Pakistan Constituent Assembly (Krishna Menon: that was their name) or decide to remain independent, ...I am clearly of the opinion that the Cabinet Mission's memorandum of 12 May does not in any way limit them in this choice.

Just two weeks before the partition took place, Mr. Jinnah reiterated this attitude before the Muslim League. He said:

> They are free to join either of the two dominions, or to remain independent. The Muslim League recognizes the right of each State to its destiny.

There are other statements by Mr. Jinnah in which he says that the person to whom the accession should be offered is the Ruler. If that were not the case, there would be no legality. The Ruler is the repository of power. Whether, morally speaking, he is democratic or not is another matter. In an Indian State, however, all power flows from the Ruler—in some cases, this is true only in theory; in many cases, before independence, this was also true in form. There was, therefore, no one else who could have offered the accession.

I come now to the question of the Constituent Assembly. In acceding to India every State—not only Kashmir—had the right, if it so wished, to call its own Constituent Assembly.

They could have discussed various other matters, the allocation of various sources of revenue and all kinds of things like that. But the majority of States, in fact all of them after some time—some of them had toyed with the idea—decided that it was a waste of time and energy in procedure, so they elected members to the Indian Constituent Assembly. When the subject was under discussion and they did not see the reason, the Princes of India—patriotic men and women as they were—all realized the importance of allowing a united India to emerge, and it was the Princes who came forward, without making any difficulties in regard to this matter, and decided to go into the Indian Constituent Assembly. But in Kashmir a different situation had arisen on account of this trouble, and therefore that matter was left alone. Besides, in Kashmir, there had been a powerful national movement which in 1944 had asked for a constituent assembly, and their demand for a constituent assembly was part of their national upbringing. I would ask the Security Council whether any democratic government could disregard a very well established feeling of that kind.

What I am here concerned in pointing out is that this idea of a constituent assembly was not something either strange in the relationships between India and the Indian States, or something that we conjured up just because the matter was before the Security Council. It was there long before there was an invasion of Kashmir; it was part of the demand of the people to the Maharaja. But the Maharaja had his own plans, like some countries have for their colonial territories and will not give them any power, and he would have none of it.

So the national movement in Kashmir wanted this constituent assembly. Then came the war, the invasion and all these troubles and the matter was kept in suspense. Kashmir acceded in three main

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subjects only. There were various other matters, because under the British rule there were varying relations between British India and the Indian States and in the case of Kashmir there were a large number of problems, of customs and so on to be resolved. So they decided to have their own constituent assembly.

What does this constituent assembly amount to ? So far as the Security Council is concerned it has to look at the documents. These are constitutional documents and I would ask the Council to look at the document which is the source from which the constituent assembly in its present form derives its existence; then its scope will be seen ; because it has been presented as if this constituent assembly were a device rather in disregard of all other processes. It is contained in the proclamation of the Yuvraj of Kashmir, the son of the old Maharaja, who is elected by the people every five years—this is a democratic process. He is the head of the State and he issued a proclamation on 1 May 1951, and this is the proclamation :

Whereas it is the general desire of the people of the State of Jammu and Kashmir that a Constituent Assembly should be brought into being for the purpose of framing a constitution for the State (Krishna Menon: that is its terms of reference).

Whereas it is commonly felt that the convening of the Assembly can no longer be delayed without detriment to the future wellbeing of the State (Krishna Menon: again a purpose with which we do not disagree).

And whereas the terms of the proclamation of the Maharaja (Krishna Menon: his father) dated 5 March 1948 in regard to the convening of a national assembly as contained in clauses 4 to 6 of the operative part thereof do not meet the requirements of the present situation (Krishna Menon: it is out of date).

I, Yuvraj Karan Singh, do hereby direct as follows :

(1) A Constituent Assembly consisting of representatives of the people, elected on the basis of adult franchise, shall be constituted forthwith for the purpose of framing a constitution for the State of Jammu and Kashmir;

(2) For the purpose of the said elections the State shall be divided into a number of territorial constituencies, each containing a population of 40,000 or as near thereto as possible, and each electing one member. A delimitation committee shall be set up by the Government to make recommendations as to the number of constituencies and the limits of each constituency ;

(3) Elections to the Constituent Assembly shall be on the basis of adult franchise, that is to say, every person who is a State subject of any class, as defined in the notification No....., is not less than twenty-one years of age on the first day of March, has been a resident in the constituency for such period as may be prescribed by the rules, shall be entitled to register in the electoral rolls of that constituency, provided that any person who is of unsound mind or has been so declared by a competent court, shall be disqualified for registration;

(4) The vote at the election shall be by direct and secret ballot ;

(5) The Constituent Assembly shall have power to act notwithstanding any vacancy in the membership thereof (Krishna Menon: that is in order to provide for the places from which people could not be elected, in the occupied area. There again, they tried to work it out as smoothly as possible without talking about annexation or anything of that sort. They simply left that place vacant);

(6) The Constituent Assembly shall frame its own agenda and make rules for the governing of its procedure and the conduct of its business ;

The Government shall make such rules and issue such instructions and orders as may be necessary to give effect to the terms of this proclamation.

Then it goes on to say that all things done before the issuing of this proclamation with a view to facilitating the provision of electoral rules for the purpose of election to the Constituent Assembly shall, in so far as they are in conformity with the provisions of this proclamation—therefore anything that is not in conformity with this proclamation, or the decision of any conference, is not binding at all—will be deemed to have been done or taken under this proclamation

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as if it was in force at the time such things were done or such steps were taken.

This is the proclamation which states the terms of reference so to speak of this Constituent Assembly. It is quite clear from this proclamation that the function of this Constituent Assembly is to make a constitution for Kashmir. It could not make a constitution for defence, external affairs or communications, or do anything against the fundamental rights of the Indian Constitution, because it had accepted accession by that time.

Now we turn to the document which is the constitution adopted by the Constituent Assembly and look at what it says. The burden of the argument here is that this Constituent Assembly is going to create a new relationship, and my answer is, in terms of international law : the actions of a Constituent Assembly are not creative, they are merely declaratory ; they do not make anything new.

What does it say?

> We, the people of the State of Jammu and Kashmir, having solemnly resolved, in pursuance of the accession of this State to India (Krishna Menon : if anything is wrong, it is the accession that is wrong, not the Constituent Assembly ; the relationship with India was not brought about by the Constituent Assembly, it was brought about by the accession) which took place on the twenty-sixth day of October, 1947, to further define the existing relationship of the State with the Union of India as an integral part thereof, and to secure to ourselves justice, social, economic and political ; liberty of thought, expression, belief, faith and worship ; equality of status and of opportunity ; and to promote among us all fraternity assuring the dignity of the individual and the unity of the Nation ;
>
> In our Constituent Assembly this seventeenth day of November, 1956, do hereby adopt, enact and give to ourselves this Constitution.

So if there was a date, that was 17 November 1956. Secondly, this Constitution creates nothing. It is in pursuance of the accession. If the relationship of Kashmir is not acceptable—as it is not—to Pakistan, then the thing to quarrel with, so far as the Constitution is concerned, is the Instrument of Accession and the Government of India. The Constituent Assembly could do nothing ; it was done in pursuance of the accession. In other words, this is the act of a sub-sovereign body.

It is the by-laws, if you like—it is for the internal government of the country, where an enormous amount of social reform is taking place, where land reform has resulted in the abolition of the old form of landlordism and where no one can hold more than twenty-three acres of land, where education has spread. They want to arrange all their economic affairs. Furthermore, I want to draw the Council's attention to Part I of the Constitution, which states, in paragraph 1(2) :

> (2) This section and sections 2, 3, 4, 5, 6, 7, 8 and 158 shall come into force at once (Krishna Menon : that is to say when this Constitution is put in draft) and the remaining provisions of this Constitution shall come into force on the twenty-sixth day of January, 1957....

Now what are the reserved clauses ? I have mentioned sections 2, 3, 4 and 5. Section 3 reads :

> 3. The State of Jammu and Kashmir is and shall be an integral part of the Union of India.

That provision came into force in November.

> 4. The territory of the State shall comprise all the territories which on the fifteenth day of August, 1947, were under the sovereignty or suzerainty of the Ruler of the State.
>
> 5. The executive and legislative power of the State extends to all matters except those with respect to which Parliament has power to make laws for the State under the provisions of the Constitution of India.

All those provisions which relate to federation matters, to matters of the relationship between the State and the Federation, are matters of past history.

In this connection the Presidential Order of 1954 is important. That is part of our Constitution. It is not as though the 26th is a zero hour. As a matter of fact, the Security Council is in a somewhat difficult position. Actually nothing will happen on 26 January except, in all probability, before midnight of the 25th the Constituent Assembly will dissolve itself.

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Can the Security Council tell them that they should not dissolve themselves? The Security Council has been asked to put itself in a position where its actions would have no meaning in this connexion. If there were any issue, that issue should be in regard to accession. Is Kashmir a part of India? There I think the Security Council is tied up by the findings of the Commission; it is tied up with constitutional law and practice; it is tied up with the law of federations and, what is more, it is tied up with the principles of the Charter.

The Security Council, of course, in its profound wisdom may do what it likes. I now speak from memory, which is not always very good, but the Foreign Minister of Pakistan either said or suggested that there should be some restraining action in the character of an injunction. Members know that an injunction is an equitable process, a process arising from equity. And what invader can ask for equity? Therefore, that question does not arise.

I want to submit, therefore, that the whole of this crisis atmosphere which has been created about 26 January is just unreal. The 26th of January with us, as with Dr. Walker in Australia, marks the foundation of our Constitution. It is India's national day. Therefore, this new State has finished its municipal constitution. Its conduct is municipal—it is dealing with its legislature, how many members of Parliament there should be, what to do with the land laws, what taxes they should raise and are competent to raise in connexion with the Federation of India, what the powers of the Speaker of the House or the Advocate-General might be—these are the matters contained in this Constitution. A great many of them are already in operation. The Constituent Assembly in Kashmir as was the case in India sits both as a parliament and as a constituent assembly. When it sits as a constituent assembly it is presided over by its chairman. When the chairman leaves the chair and the speaker presides, it becomes a parliament. The same body functions in two different ways. Whenever the Constituent Assembly completes consideration of a particular measure which is necessary for the welfare of the people, the Parliament enacts it. It is part of what has already been done and there is no crisis or zero hour, there is no action from which restraint can be exercised. The only thing that could be restrained would be to undo the act of accession. But the right thing for the Security Council to do, in the submission of the Government of India, would be to ask for the observance of the Charter and for the vacating of the aggression. That is the problem before the Council.

I have taken this out of the general scheme of the argument in order to meet the wishes of the various members of the Security Council who had intimated privately that they would like to hear about it. That is the position as regards the Constituent Assembly. I hope that the Security Council is not going to find itself in a position where it will subscribe to a decision which is so devoid of reality, which will expose it to ridicule, which is so unconnected with the events of the day and which is contrary to the constitutional procedures of a sovereign State, of a Member State whose constitution is presumed to be known to the United Nations in international law. What is more, there are large numbers of people who subscribe to the same kind of legal system to which we subscribe.

I should like, therefore, to erase from the minds of members this idea of a crisis or a zero hour or of something happening on 26 January. It is a day which is observed in every part of India in general jubilation as the day when the Constitution of India was inaugurated. It traces its origin to midnight, 25—26 January 1930, when, on the banks of the Ravi, the present Prime Minister, the President of the Indian National Congress, stated that all men are entitled to their freedom. Therefore, should any country oppress us, where there is a rule of that kind we shall try peacefully to terminate it. That was the declaration of independence in 1930, and this is the anniversary of that day.

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There is nothing in this, therefore, which should attract the attention of the Security Council with regard to the Constituent Assembly process. I have taken pains to inquire about what actually is going to happen on that day. I understand that all that will happen will be a formal meeting of the Assembly in order formally to wind up their affairs because they no longer have any function. Parliament may then sit the next day.

This was not arranged in view of the meeting of the Security Council. It is part of its normal proceedings. It has finished its functions long ago. There is no particular reason why it should do this on the 26th, except that it may thus spare the expense of having two separate celebrations, one to wind up the Constituent Assembly and another for its national day. The appointed day in this respect follows the Constitution of India. In fact, the Australians are always competing with us in this connexion with the result that we cannot get enough people to come to our functions.

I have so far argued that the claims in regard to this are based, on the one hand, upon something which is extra-legal and extra-constitutional and outside the decisions of the Security Council, and I have submitted the views of the Government of India in refutation of that position. There are no considerations which are so generous in this matter, no considerations which, on their own merits, indicate that this must have been the course. To the extent that the Foreign Minister of Pakistan has quoted authority, I have proved, if my documents are correct—and they are open for scrutiny to anyone—that those conditions not only did not exist but that they referred to other matters. The legal and constitutional aspect of it relates to the accession.

I should like once again to repeat that this is a matter—and I quoted this position this morning—on which the Government of India has at no time made any recession. What is more, the Commission has at no time raised this point; that is to say, it is accepted on all sides. The members were concerned with the issues of international peace and security, and that is the function of the Security Council.

I ask you, Mr. President, to look at Chapter VI or even Chapter VII, if you wish, and I ask where is the provision to challenge the merits of accession. The Security Council is called upon here to deal with pouring oil over troubled waters. So far as we are concerned, we have not only helped to fetch the oil, but we do not trouble the waters at all. We ask the Council to restrain others from making the water muddy.

If those two issues are out of the way, then what remains? What remains is aggression. That is what remains in any claim that can be made with regard to what is called a plebiscite.

As regards the commitments which we have made, I am prepared to face them quite squarely, because the Government of India has a responsibility to explain its position before a world body such as the United Nations.

We did not ask the Security Council at the end of five years to spend several days on this matter. Our sister State of Pakistan desired to do so, and we were quite prepared to come here either in June of last year, when there were rumours about it, or at the present time. You, Mr. President, notified us about this meeting, and we are here.

Now, what is this commitment? The commitment is that in various resolutions it has been said that it is the wish, that it is the desire, to refer this matter to the people of the country, and so on. I do not know whether you want me to quote this again, as I have quoted it so many times, but it is all there.

No one, least of all any responsible person from India, says that the question of plebiscite was not considered at one time under certain conditions. It is an error, if I may say so, to ask a Government to consider what it has offered and what it has considered outside the context of any circumstances.

Any lawyer here would know that even in

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a civil matter, even in a matter between individuals inside a country, all the surrounding circumstances have to be taken into consideration. The nature of these commitments is twofold. The plebiscite, I think, has, first of all, two aspects, and one aspect has two sub-aspects.

One aspect is the commitment we may have made to the peoples of Kashmir, that is to say, what came out of us by our own volition in the context of the national life of India. That is represented by the communication made by Lord Mountbatten to the Maharajah on the 27th, which states that "it is the wish of the Government in accordance with our policy"—he did not say anything about a plebiscite—"to have a reference to the people." That might be any kind of reference; it might be a referendum; it might be a plebiscite; it might be a general election; it might be Gallup Poll; it might be anything. That was the position at that time, but let us assume that it was a plebiscite. Even he attached conditions to it: when the soil was cleared of the invader and peace and order was restored. I cannot state the authority of my distinguished colleague from Pakistan on the question of peace and order, because in one part of his statement he says there is peace and order but in another he says there is not. I think he is right, because there is peace and order in the territory we administer.

That is one commitment. Now I should like you to look at this. This is very much like an equitable doctrine, and therefore I think that one may make an analogy. Suppose that you, Mr. President, with all the wealth you possess, make a testamentary disposition to your children, willing them your property and saying that you give so much money for this and so much for that, and that at the end of it you say to your eldest son, "It is my wish that out of this money you should build a library", or something of that character. That has no force in law; it is the expression of a wish. All that binds the young man is what you have said. The expression of a wish is not binding in any equitable relations. It may be respected. We try to respect it.

Therefore, the first commitment, if it is a commitment, is to the people of Kashmir. No other party comes into it. Secondly, it is in consonance with the policy of the Government of India. Policies of Governments are matters which the Governments alone can decide. Thirdly, it was effective when the soil was cleared of the invader; and, fourthly, when peaceful conditions had been restored.

That is why my friend and predecessor, Mr. Gopalaswami Ayyangar, when he came here, said that the garrisons of India must garrison the northern area, that the troops must be kept to prevent tribesmen coming on the western frontiers of western Kashmir and on the north-western frontiers of north-western Kashmir. The whole of the territory comes under the sovereignty of Jammu and Kashmir, as is admitted by the Commission.

Therefore, that condition, even so far as we are concerned, does not exist. But we did our best. We hung this up for some time, right from 1948 till about 1952, hoping that something would happen.

The members of the Security Council are all of sovereign independent States given to the democratic way of life. Can the Security Council ask us that the people of Kashmir should be without franchise, without the guarantee of fundamental rights, without being able to introduce the economic legislation that is necessary for their planning, their education and things of that character? How is that to be done? It is to be done by command from the Government of India? That is not how our country is governed. These provisions are made by the Constituent Assembly for that reason. Therefore, while it was not possible for us to do it in one way, we did it in another way.

So in Kashmir there is a legislature, a Constituent Assembly that functions. In that parliament there is an opposition, small as it is. In 1952 there were fifteen newspapers and journals in Kashmir, in a very small area where the majority of people are not

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literate; today there are forty-eight. What is more, as I shall point out later, in the last two or three years more than 500 primary schools have come into this area. So it can be seen that the Government of Kashmir is advancing all State matters in this way. Therefore, to the extent that the wishes of the people could be consulted, we did so.

The Foreign Minister also made a reference, not very complimentary to us, to the election of this Constituent Assembly. I am prepared to face this issue also. The proclamation asked for a universal franchise, secret ballots, and so on. The Constituent Assembly elections were announced; the electoral rolls were prepared; the electoral constituencies were delimited. All the arrangements were made. The candidates came forward. A fact that has not been mentioned is that the opposition candidates who afterwards withdrew did not come from the people who are either Moslems or those who wanted to go to Pakistan or were suspected of wanting to go to Pakistan; they came from the orthodox Rajput Hindu sections of the community who were against India for its being a secular State. We did not stop them, but they realized that in this large country, where there is a big nationalist movement, they did not have a chance. Having filed their nominations, and all arrangements having been made before the election dates, they withdrew their candidates.

According to our election laws, in common with the election laws of the United Kingdom, Australia, and, I believe, other countries, each candidate has to deposit a certain amount of money, and if he does not poll one-tenth of the votes he forfeits the deposit. What is more, he looks very ridiculous if he polls a microscopic number of votes. These people, having used the elections for propaganda purposes, withdrew their candidacies. They were not forced to withdraw or anything of that character. The result was that the others were returned unopposed. There are many unopposed elections of this type.

Whilst the case is not an exact parallel, I would ask my colleague from Pakistan to look at the elections in India in 1937. Then a national movement of that character, in the context of the first election, swept everything before it.

The test of this is in the municipal elections. Sometimes we have candidates withdrawing from elections. Where there is no forfeiture of deposits there is no obligation of withdrawal. There are many elections of municipalties and local bodies in Kashmir, and in all these elections the same party has come out on top. Therefore, the idea that there was a one-party State or a kind of election to order is entirely inconsistent with what goes on in India.

With great respect to the Security Council, I would submit that when a country has the largest democratic electorate in the world, when it has a constitution guaranteeing the fundamental rights, when every man and woman in it may vote and, what is more, when 200,000,000 people will go to the polls in two months in that country, I think that to speak of such a country as stifling elections is a charge that cannot pass muster. I shall not say anything more than that.

You cannot compel people to be opposed. If there are unopposed returns, it does not mean that the system is not functioning. The Constituent Assembly does not sit in secret. The world press is there.

Kashmir is the centre of the world's visitors. Last summer we had 62,000 people in Kashmir as visitors, and 9,000 of them were foreigners, and the majority Americans. And they did not stick to the towns. They went around all over. Therefore, any suggestion that this Constituent Assembly was an arranged pocket affair is very much of a mistake. What is more, in that Constituent Assembly, as regards the very men whose names were referred to by the Foreign Minister of Pakistan as now having fallen from favour and therefore were in prison, when I go into the facts the Foreign Minister will probably be pleased to withdraw some of these names.

But at any rate that is another matter.

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However, what I say is this: that the candidates who were elected are people who have been participants in the national movement for a very long time. For the convenience of the Council I have submitted as document 6 the statement made by Sheikh Abdullah to the Jammu and Kashmir Constituent Assembly. It is an extremely interesting document and we do not make any apologies for submitting it. Sheikh Abdullah is in detention. He is in detention under the law of Kashmir. I will come to that in a moment, before I finish the whole submission.

In this address to the Constituent Assembly he has put to them the pros and cons of accession. That does not bind us. That is the internal matter of the Kashmiris, because the accession is bound, as I said, by the law. But he, as an internal Kashmir leader, can tell the people what is good and what is bad for them; and he has said what are the advantages, what are the disadvantages, what is the case for remaining as an independent country and how long they would remain independent, and he has also stated some very lucid facts with regard to the invasion and the so-called liberation of Kashmir by the invaders. Therefore, I think that whatever may be the communications that now come, it is as well to read the case that was presented to the Constituent Assembly, because that shows the opportunity to discuss the pros and cons of it.

They did not do it in one day; it was not like a plebiscite when within twenty-four hours you have got to say "Yes" or "No" on a vast and complicated issue, and what the Security Council or members of national Parliaments are not able to decide, ordinary populations are asked to decide by a stroke of the pen.

But apart from that, in this Constituent Assembly members spoke about each of these various aspects of what their State should have, more or less, about its defence, its industries and everything else. Therefore, to suggest that this Constituent Assembly was some kind of a time-table affair is a misnomer. Thus, so far as we are concerned, on the commitments to the people of Kashmir and the plebiscite, on that leg of this argument we have discharged our obligations. Where we have not been able to discharge our obligations so far as the form goes, if that is considered necessary, we have been impeded by acts which are beyond our control, namely, invasion, unsettlement, occupation and the division of Kashmir by force of arms.

Sheikh Abdullah said:

As a realist I am conscious that nothing is all black or all white, and there are many facets to each of the propositions before us. I shall first speak on the merits and demerits of the State's accession to India. In the final analysis, as I understand it, it is the kinship of ideals which determines the strength of ties between two States. The Indian National Congress has consistently supported the cause of the States peoples' freedom. The autocratic rule of the Princes has been done away with and representative governments have been entrusted with the administration. Steps towards democratisation have been taken and these have raised the people's standard of living, brought about much-needed social reconstruction, and, above all, built up their very independence of spirit. Naturally, if we accede to India there is no danger of a revival of feudalism and autocracy. Moreover, during the last four years, the Government of India has never tried to interfere in our internal autonomy (Krishna Menon: We were not permitted to do so by our Constitution.) This experience has strengthened our confidence in them as a democratic State. (Krishna Menon: This is Sheikh Abdullah speaking.)

The real character of a State is revealed in its Constitution. The Indian Constitution has set before the country the goal of secular democracy based upon justice, freedom and equality for all without distinction. This is the bed-rock of modern democracy. This should meet the argument that the Muslims of Kashmir cannot have security in India, where the large majority of the population are Hindus. Any unnatural cleavage between religious groups is the legacy of Imperialism, and no modern State can afford to encourage artificial divisions if it is to achieve progress and prosperity. The Indian Constitution has amply and finally repudiated the concept of a religious State, which is a throwback to medievalism, by guaranteeing the equality of rights of all citizens irrespective of their religion, colour, caste and class.

The national movement in our State naturally gravitates towards these principles of secular democracy. The people here will never accept

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a principle which seeks to favour the interests of one religion or social group against another. This affinity in political principles, as well as in past association, and our common path of suffering in the cause of freedom, must be weighed properly while deciding the future of the State.

We are also intimately concerned with the economic well-being of the people of this State. As I said before while referring to constitution-building, political ideals are often meaningless unless linked with economic plans... As you know, and as I have detailed before, we have been able to put through our 'land to the tiller' legislation. (Krishna Menon: And he goes on to talk about legislation that has taken place. Then he continues as follows:)

In the second place, our economic welfare is bound up with our arts and crafts. The traditional markets for these precious goods, for which we are justly known all over the world, have been centred in India. (Krishna Menon: That is, their economic life is tied up with us.) The volume of our trade, in spite of the dislocation of the last few years, shows this. Industry is also highly important to us. Potentially we are rich in minerals, and in the raw materials of industry; we need help to develop our resources. India, being more highly industrialized than Pakistan, can give us equipment, technical services and materials. She can help us too in marketing... It is around the efficient supply of such basic necessities that the standard of living of the man in the street depends. (Krishna Menon: Then he goes on to talk about the disadvantages.)

To begin with, although the land frontiers of India and Kashmir are contiguous, an all-weather road link dependable as the one we have with Pakistan does not exist. (Krishna Menon: But now it does; at the time he spoke it did not.) This must necessarily hamper trade and commerce to some extent, particularly during the snowy winter months. But we have studied this question and with improvements in modern engineering, if the State wishes to remain with India, the establishment of an all-weather stable system of communication is both feasible and easy. Similarly, the use of the State rivers as a means of timber transport is impossible if we turn to India, except in Jammu where the river Chenab still carries logs to the plains. (Krishna Menon: Their timber trade is with Pakistan.)

In reply to this argument, it may be pointed out that accession to India will open up possibilities of utilizing our forest wealth for industrial purposes and that, instead of lumber, finished goods, which will provide work for our carpenters and labourers, can be exported to India where there is a ready market for them. Indeed in the presence of our fleets of timber-carrying trucks, river transport is a crude system which inflicts a loss of some 20 to 35 per cent in transit.

Still another factor has to be taken into consideration. Certain tendencies have been asserting themselves in India which may in the future convert it into a religious State wherein the interests of Muslims will be jeopardized. (Krishna Menon: He has put in every argument.) This would happen if a communal organization had a dominant hand in the Government and Congress ideals of the equality of all communities were made to give way to religious intolerance. The continued accession of Kashmir to India should, however, help in defeating this tendency. From my experience of the last four years, it is my considered judgment that the presence of Kashmir in the Union of India has been the major factor in stabilizing relations between the Hindus and Muslims of India. Gandhiji was not wrong when he uttered words before his death which paraphrase, 'I lift up mine eyes unto the hills, from whence cometh my help.'

As I have said before, we must consider the question of accession with an open mind, and not let our personal prejudices stand in the way of a balanced judgment. I will now invite you to evaluate the alternative of accession to Pakistan.

Now he has dealt with India. He goes on:

The most powerful argument which can be advanced in her favour is that Pakistan is a Muslim State, and, a big majority of our people being Muslims, the State must accede to Pakistan. This claim of being a Muslim State is of course only a camouflage. It is a screen to dupe the common man, so that he may not see clearly that Pakistan is a feudal State in which a clique is trying by these methods to maintain itself in power.

I am only quoting Sheikh Abdullah. He goes on:

In addition to this, the appeal to religion constitutes a sentimental and a wrong approach to the question. Sentiment has its own place in life, but often it leads to irrational action. Some argue, as a supposedly natural corollary to this, that on our acceding to Pakistan our annihilation or survival depends. Facts have disproved this. Right-thinking men would point out that Pakistan is not an organic unity of all the Muslims in this sub-continent. It has, on the contrary, caused the dispersion of the Indian Muslims for whose benefit it was claimed to have been created. There are two Pakistans at least a thousand miles apart from each other. The total population of Western Pakistan, which is contiguous to our State, is hardly 25 million (Krishna Menon: I

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are wrong; it is less than I said) while the total number of Muslims resident in India is as many as 40 millions. As one Muslim is as good as another, the Kasmiri Muslims, if they are worried by such considerations, should choose the 40 millions living in India.

Looking at the matter too from a more modern political angle, religious affinities alone do not and should not normally determine the political alliance of States. We do not find a Christian bloc, a Buddhist bloc, or even a Muslim bloc, about which there is so much talk nowadays in Pakistan. These days economic interests and a community of political ideals more appropriately influence the policies of States.

We have another important factor to consider, if the State decides to make this the predominant consideration. What will be the fate of the one million non-Muslims now in our State? (Krishna Menon : Out of the 4 million population of Kashmir in 1941 more than one million were non-Muslims, and a great many of these were Buddhists of Tibetan race. The statement continues :) As things stand at present, there is no place for them in Pakistan.

Any solution which will result in the displacement or the total subjugation of such a large number of people will not be just or fair...

(Krishna Menon: I will leave this now and come back to the other course he has pointed out. I do not want to weary the Council. The third course which is suggested is) Why do they not remain independent? (Krishna Menon: And I am reading this in order to show that it is not as though these people were jockeyed into some position. They had all this before them.)

The third course open to us still has to be discussed. We have to consider the alternative of making ourselves an Eastern Switzerland, of keeping aloof from both States but having friendly relations with them. This might seem attractive in that it would appear to pave the way out of the present deadlock. To us as a tourist country it would also have obvious advantages. But in considering independence we must not ignore practical considerations.

Firstly, it is not easy to protect our sovereignty and independence in a small country which has not the sufficient strength to defend itself on our long and difficult frontiers bordering on many countries.

Secondly, we must have the good-will of all our neighbours. Can we find powerful guarantors among them to pull together always in assuring us freedom from aggression? I would like to remind you that from August 15 to October 22 of 1947 our State was independent (Krishna Menon: This was before accession) and the result was that our weakness was exploited by our neighbour, with whom we had a valid standstill agreement. The State was invaded. What is the guarantee that, in future too, we may not be the victims of similar aggression?

He has developed this point, so I have read this out at length because this idea of accession is obtained.

Now, therefore, what is the nature of our commitments outside? I have dealt with the position with regard to the Kashmir people and ourselves. The outside commitments are what arise from the mention—and I want to use this word "mention"—of the word "plebiscite", and from its use as a provisional mechanism, or the idea that it can be part of a plan which is a concerted plan implementing itself in consecutive stages. That is what is being argued. First of all, I do not know whether I need repeat the arguments. I said this this morning and this afternoon, but all of these commitments can be tied up in these two resolutions of the Commission—that is, the resolutions of 13 August and 5 January.

The resolution of 5 January is an implementing resolution. It provides the mechanism, provided the decision is made. But our commitments for a plebiscite in this matter are, first of all, conditioned by the withdrawal of Pakistani forces and nationals, by the large-scale disbandment and disarmament of the Azad Kashmir army, by the restoration of the unity of the country, by the return of refugees, by the restoration of law and order and by conditions of security.

I have not the resolution before me; if I had, I would probably make this statement longer, but I do not want to do so. So if the Council will recall to mind the various "whens" and "afters" and "ifs" that were in that resolution, it will appreciate that there can be no shadow of doubt in any rational mind that what was conceived was a plan conditional upon a contingency. There are two levels of conditions, and those conditions have not been performed. What is more, in our view they are incapable of performance, so that it is therefore not possible.

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But whether they are incapable of performance or not, we had no commitment in this matter because the Government of India takes serious exception to the suggestion that we dishonoured our commitments. It is incumbent upon those who make these charges to prove them beyond all doubt.

We have made no commitments. What is the nature of commitments, Mr. President? You have long experience of international affairs. Commitments are treaties between nations; they are international obligations in the way of final acts, declarations, protocols and things of that kind. In this particular case what happened was that the Commission produced a resolution and we two agreed to it. There is no bilateral agreement between Pakistan and ourselves, technically.

But all the same, we are not only prepared to say, but anxious to say, that whatever there is is to be found in the resolutions of 13 August and 5 January, with the assurances in the context of the conditions then existing. And what is more—and this is the most important part—did not the fact that violations of the guarantees and assurances given to the Security Council by the other side had taken place before the agreement, a fact which was concealed from the Council, mean that, therefore, in equity, that agreement was vitiated in its foundation because it was not reached *bona fide*, if the Pakistan Government knew in August that that was the position of the Azad forces, as has been pointed out by the Commission?

These are not my words. Even at the risk of tiring the Council's patience I have quoted these phrases instead of giving them in indirect narration, because I did not want to expose myself to a charge of inaccurate citation.

Therefore, those are our commitments. What is their position in the context of the Charter? These resolutions, first of all, are not Security Council resolutions; they are, to the extent that they have been endorsed by the Security Council. But what do they say? They are by way of recommendations—recommendations which can be implemented only if the two sides co-operate, if the two sides agree. Our side was willing to agree. It has been willing to agree, and it has tried for years to agree. But we have always said that the Government of India will never agree to the interference of Pakistan in the sovereign affairs of the State, and that the plebiscite is not Pakistan's business but has to be taken by a Plebiscite Administrator who has to decide its terms. And in any case none of these things can take place so long as the territory—more than 42,000 square miles out of 84,000—is under occupation.

I have not referred as yet to the story of the occupation of the North. I would like to do so during the next instalment of this statement, and I have to ask all those concerned to forgive references to individuals and nationalities which are of a cnaracter which is not intended to hurt them at all since they are the facts of history.

Thus we have no commitments in this way. Our commitment is contingent upon the performance of part II, and even then—even if part II is performed— what is the promise that we have made? The promise we have made is to confer with the other side. But conferring with the other side does not necessarily mean that we have to do what anybody else says, or that they have to do what anybody else says.

That is all the commitment in part III of section C of the resolution. People are likely to be misled by the enormous amount of wordage there is in the resolution, because there are supplementary resolutions. It is an implementing resolution of the minutiæ and mechanism of election. Therefore, there are no commitments that can be laid at the door of India with regard to the carrying out of a plebiscite.

The next point is whether we have, by our action, made non-performance of Part II possible. I think that the Security Council, and every member of it, and our friends in Pakistan, would be entitled to point a finger of rebuke and scorn at us if it was our action that had prevented Part II from being implemented, because it is not equi-

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table to say: I will do III if II comes about, and I go out and make II impossible. But the whole history which I have unfolded is not like that. The personal conversations of the Prime Minister, who is the head of the Government of India, the *aide-memoires* and memoranda and correspondence with the Commission are all on record. It is not as though it was done at some low departmental level—although that would not bind the Government of India even then. It has been carefully gone into at every point. And then we come to the interpretation of agreements.

For this purpose, if the President so desires, we could take a hypothetical position. First of all, I said that there was no agreement on the level of a treaty. There is no international agreement of the type that is a protocol or a final declaration of a conference. What there is, is an agreement on a plan of settlement, which is a very different thing. Today it is us; tomorrow it may be someone else in the same position. If one cannot come before the Security Council and discuss with its representatives tentative plans and, if that, then something else, how can one carry on negotiations? All the agreements, all the meeting of minds, all the differences between minds constitute a plan that is contingent upon another contingency.

Now, for the purpose of argument, my Government will be prepared, not to admit that there is anything more than that, but to examine this problem as though it were a treaty. And I want to emphasize this because we have suffered in the past by making hypothetical propositions. Supposing we assume—which we cannot assume—that whatever we have said in the way of a treaty is a plebiscite; what are the obligations under international law with regard to treaties? I am not going to quote any law because this is not a juridical body, but there are principles of international behaviour. There are some conditions which are laid down for the interpretation of treaties. They are here in Oppenheim's "International Law". If anyone is apprehensive that I might be unfair in quoting only parts of it, I am prepared to read the whole, but it will take a long time. I shall quote the parts which I think are relevant, and if there is any doubt, I will read the remainder:

> It is taken for granted that the contracting parties intend something reasonable, something adequate to the purpose of the treaty, and something not inconsistent with the generally recognized principles of international law.

I say that what the Security Council is being asked to believe that we have committed ourselves to is not anything reasonable. That is to say, to plunge a country that has got law and order institutions into a whole mixture of foreign intervention that is already on its frontier, to make this gateway of invasion into another way of interference, another way of the violation of sovereignty, is not reasonable. It is not reasonable to assume that there could be freedom of the poll in a Pakistan-occupied area when there are—as I will tell the Council later—how many divisions of the Pakistan army within five and thirty miles of its border, when there are forty-five battalions of Azad forces ready to line up, with modern troops and equipment. We have some idea of this equipment; we do not live far away. There are airstrips built in these places—again I am going to give the particulars. So far as we are concerned it is not a military secret, although it may be a secret to others. But there it is. When there is an armed fortress and, what is more, when there is all this appeal to hatred and invasion, and language such as that used by the Foreign Minister himself—which, at an appropriate stage, I propose to quote—it is not reasonable to expect that a country will unsettle things that are settled. My Latin American friends will understand that we must let things alone in this case.

It is not reasonable now. Then it must be adequate. Would this be adequate for this purpose? It was Sir Owen Dixon who said that no plebiscite would ever be adequate because, supposing the plebiscite by

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majority decided for India, he said, there would still be trouble; if they decided for Pakistan, there would be even more trouble. And, what is more, how would the adequacy of this plebiscite be justified in the present conditions?

Oppenheim says further: "It must not be inconsistent with the generally recognized principle of international law"—and that is the main sheet-anchor of our position. For the Security Council to take a step in this matter today which does not take our primary position—that is our territory has been invaded—into account would be inconsistent. It does not matter whether there are flaws in our claim. Kashmir was never a part of Pakistan. Kashmir never acceded to Pakistan. Kashmir was in no way historically connected with the present Pakistan, and therefore, its entry into that territory, irrespective of our claims, is an act of invasion.

Assume for the moment, for argument, what is not a fact—that our claims have flaws in them, either legal, political or moral, that would not justify an act which is a clear violation of international law, as I shall point out in the findings of the United Nations Commission. An act of taking troops across our frontiers, being responsible for the aiding of ravage and rapine—that is not in accordance with recognized principles of international law. I will go further and say that many invasions have taken place since the Council asked that there should not be such invasions; and what is more, there has been a withholding of information from the Security Council. This is not in accordance with international law.

International law is based upon the principle of equity, of fair-play and of international morality, and no party can come before this body and ask for equity unless it is prepared to deal it. The rule of equity in civil law is: those who want equity must come with clean hands.

Oppenheim says further:

If, therefore, the meaning of a stipulation is ambiguous, the reasonable meaning is to be preferred to the unreasonable; the more reasonable to the less reasonable.

Now, we have so many pundits of English around here. In other words, what does that resolution mean? The reasonable meaning is stage A, then stage B, then consideration of stage C. That is the reasonable meaning, and an unreasonable meaning cannot be read into that document. The purpose of the treaty is to get a settlement in Kashmir—that is the consistent meaning, not the meaning that is inconsistent with the recognized principles of international law. That is the first set of conditions in the interpreting of a treaty. In the second place, the whole of a treaty must be taken into consideration if the meaning of any one of its stipulations is doubtful, not only the wording of the treaty, but also the purposes, the motives, and the conditions prevailing at the time.

There are two things here to be taken into account. Firstly, "the motives that led to its conclusion". The representatives may recall that earlier this afternoon I referred to the anxiety of the Commission to get a cease-fire. I did not do this merely to draw attention to the fact that it had some relationship with this. The motive in getting this agreement was to stop the fighting. Therefore, to talk now of something which would lead to greater violence is not in conformity with this. The second is, "the conditions prevailing at the time". I shall deal with that at length later. Then it is stated:

The principle *in dubio mitius* must be applied in interpreting treaties. (Krishna Menon: That, again, is important). If, therefore, the meaning of a stipulation is ambiguous, that meaning is to be preferred which is less onerous for the party assuming an obligation (Krishna Menon: in this case, we are asked to be the parties who are to assume the obligation, and, therefore, if there is an ambiguity, the meaning that is less onerous to us must be taken) or which interferes less with the territorial and personal supremacy of a party (Krishna Menon: what could be more on all-fours with the present case?) or involves less general restrictions upon the parties.

It is also stated:

If two meanings of a stipulation are admissible according to the text of a treaty, such meaning

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is to prevail as the party proposing the stipulation knew at the time to be the meaning preferred by the party accepting it.

That is the case here, because when we accepted the two resolutions we accepted the stipulations and the meanings of the letters of assurance and the *aide memoire*. These were known to the other side. Therefore, that meaning is to be preferred. There are a large number of other conditions, but these are sufficient for my purposes. It is also stated that:

> It is a well-established rule in the practice of international tribunals that so-called preparatory work *(travaux preparatoires)*—i.e. the record of the negotiations preceding the conclusion of a treaty, the minutes of the plenary meetings and of committees of the conference which adopted a convention, the successive drafts of a treaty, and so on—may be resorted to for the purpose of interpreting controversial provisions of treaty. (Krishna Menon: that is what I have done, I have gone into the minutes of the Commission, into the letters, and so on). The Permanent Court of International Justice has frequently affirmed the usefulness of preparatory work.

Therefore, even if there were, and there is not, a high-level treaty as between our two countries, or an agreement of the nature of a treaty obligation, either registered with the United Nations or entered into with the Secretary-General, it would still be bound by these commitments. Therefore, we say that one of our commitments in this matter is accession. There we have a commitment. We have accepted the obligations which are laid on us under our Constitution. We have not only accepted a legal obligation, but also political and moral obligations, because to throw accession away would be to throw the whole of India into chaos and we would open the door to dismemberment, and our unity and national sovereignty is something which we prize. Therefore, under the circumstances we are not prepared to permit a challenge to the validity of this accession. That is our commitment, and on that commitment we stand.

We have another commitment, to which I shall refer at length later. That is the cease-fire commitment, and we shall honour it. But we have no other commitments.

The Foreign Minister of Pakistan said that in regard to this Kashmir matter, he had no other international obligations than those that are to be found in these resolutions. I agree with that, but to a limited extent in the sense that we have to interpret this agreement in the terms of these two resolutions to which I have referred; but if it means that the international obligations of the Charter are not binding, then I join issue with him. I am prepared to confirm that I subscribe to the view that in the discussion of any procedure, of any particular decision, of any agreement reached, these resolutions are what are binding in the circumstances I have submitted to you. But it would be wrong, so far as we are concerned, for a Member State to argue that there are no other international commitments. The Charter is a commitment for every State, and when the time comes to sum up these observations at the conclusion of these meetings of the Security Council, we shall fall back upon our bounden duty to ask all of you to address yourselves to the provisions of the Charter. Therefore, no Member State, in our submission, may say there are no other international obligations. I feel sure that that is not the meaning of the statement made by my colleague, but I wish to be clear on this point.

Firoz Khan Noon (Pakistan): I am sorry, but that is a misinterpretation of my statement.

The President: You have no right to interrupt.

Krishna Menon: I will read out the quotation. I thought that by not doing so before I could save time, but it will be seen that my slow procedure is the quickest in the long-run. The representative of Pakistan said:

> Pakistan is equally convinced that the international agreement for the plebiscite is one indivisible whole. (Krishna Menon: we agree) No party to the dispute has the right to accept it in part. If India, a party to the dispute (Krishna Menon: which does not exist) makes

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an attempt to freeze the situation as it exists, Pakistan would consider it as a repudiation of the international agreement... I want to make it clear that Pakistan recognizes no international obligations with regard to the State of Jammu and Kashmir except those she has voluntarily accepted together with the Government of India in the resolutions of UNCIP dated 13 August 1948 and 5 January 1949. (*S/PV. 761, page 37*).

I should not have referred to this without quoting it, but I submit that, in my own reading of this, it does not exclude our commitments under the Charter. It simply means that there are no other agreements of the type of these resolutions or plans of that character outside these two resolutions. I was trying, in my statement, to elicit information on this point in the reply of my colleague. So far as the Government of India is concerned, for the moment we assume that this means that, so far as commitments of this kind are concerned, these are the only two resolutions. That is also our position.

Could I now rest on this instalment at this time?

The President: I should like to know how much more time the representative of India desires in order to finish his statement.

Krishna Menon: I think that another meeting would be sufficient.

The President: I have the feeling that the members of the Council would be willing to stay for another hour.

Krishna Menon: I do not think I would be able to finish my statement in another hour. It will probably take two to two and a half hours, even if I condense everything. The whole of the argument in this case remains. I have a responsibility to the Government of India at this stage, when this matter has come up after five years, with the statements made in the Council with regard to tribal movements and the references to armed concentrations and so on, to bring before this Council all the facts in the situation. I have done my best to make it non-controversial and to stick to the facts and to the record. I have no desire to prolong these proceedings. I would have a considerable personal difficulty in carrying on for another two hours.

The President: If the representative of India requires two and a half hours more, we can adjourn now and resume again at 8-30 p.m., and continue until the statement is finished.

Arkadiev (Union of Soviet Socialist Republics) (interpretation from Russian): Mr. President, perhaps you might find it appropriate, since I see that the representative of India is in a very anguished condition, and I imagine that other members of the Council would also find it difficult to listen to another two-and-a-half-hour statement, perhaps for the sake of all of us, and also of course for the productivity of our work, it might be more reasonable if we were to take this matter up again tomorrow after we have rested. Do we need to finish this evening? Would the President please consider this point?

The President: What is the pleasure of the Council? If there is no discussion, does that mean that the Council agrees to the President's proposal to resume the meeting at 8-30 p.m. tonight?

Krishna Menon: Am I entitled to speak on this?

The President: I think this is a decision to be made by the Council.

Krishna Menon: But under Article 32 of the Charter, when I am asked to participate in this discussion, if the Council desires to hear the views of the Government of India, that must be physically possible.

The President: The President will listen to your views.

Krishna Menon: A night meeting would be necessary and warranted in conditions of a different character, if this were a matter of grave urgency which has not waited five years, and now, suddenly, we are called upon to conclude this business tonight. I can submit to you privately the reasons why this cannot be done—and this is in no political context whatsoever. I want to do justice to the presentation of the case of the Government of India, and it is

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not possible for me to do that more than five or six hours a day. If you insist, Mr. President, upon carrying on the meeting, then I am afraid that part of this case will have to go *ex parte*. This is a very unreasonable position and, with great respect, I suggest that after the normal sitting of the Council, where a very complex matter of this kind has to be submitted over the hours and a great strain is imposed because one has to summarize very much more than one would do if time was not important, for me to continue with the degree of intensive application that is required for this purpose would be difficult. Therefore, I hope that the Council will not hold a meeting tonight. If it does so, it will be the decision of the Council.

Nunez-Portuondo (Cuba) (interpretation from Spanish): I am of the opinion that we should accede to the proposal of the representative of India. If he has two and a half hours more to speak and if he feels that it is physically impossible for him to do so tonight, it is the submission of the Cuban delegation that we cannot possibly have a meeting tonight. I believe that all the members of the Council wish to complete the consideration of this item at the earliest possible time, but it would only be a matter of a few hours if we postponed consideration of this question until tomorrow morning.

The President: If there is no further discussion, there is a proposal by the representative of the Soviet Union to continue the meeting tomorrow morning.

It was so decided.

The President: We will meet again tomorrow at 10 a.m.

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III

24th January, 1957

Krishna Menon: I should like to express my appreciation to the Council for its acquiescence in the proposal made yesterday by the representatives of Cuba and the Soviet Union to hold this meeting this morning instead of last night.

I was dealing yesterday with the responsibility for the non-performance or the non-implementation of the plan that was put forward by the United Nations Commission for India and Pakistan on 13 August 1948 and 5 January 1949, the resolutions of those dates together forming one document —a plan of settlement and not a resolution with the character of a decision. That plan, I pointed out, was a plan which contained contingencies, and, for the performance of Part III, which is the plebiscite, called for the achievement of what are generally called conditions precedent. The issue has been, for a long time, how these conditions precedent should be brought about.

I also pointed out—and I do not want to quote the paragraphs because, in view of the President's impatience yesterday, it is better not to prolong the proceedings more than necessary—that the conditions precedent were formulated by the Commission in the light of the paragraphs I quoted.

In view of the urgency of the cease-fire because of the considerable slaughter that was going on, the very strongly expressed and repeated views of the Government of India on the necessity of avoiding further bloodshed, and the insistence of Pakistan, on the other hand, that the cease-fire could come only after the political considerations—in view of all that, this plan was put forward and accepted by us with these contingencies in it.

However, the important point to remember is this: when that plan was put forward, it was not contemplated by the authors—it was not the intention of the Commission or of the Government of India or of the Government of Pakistan—that this should be something lasting over a period of eight or nine years.

At any rate, before we approach this problem, we ought to look into the responsibility for non-performance.

I not only freely conceded, but I volunteered the point, that, if there is a plan which requires conditions precedent and if one party, wilfully and *mala fide*, impedes the performance of those conditions, then there is a charge of inequitable behaviour against it.

Those are the charges which the Foreign Minister of Pakistan set out in his statement before the Council. On pages 19 to 21 of the verbatim record of his statement, contained in document S/PV.761, there are eleven points put forward to show how India obstructed the performance of Part II. If these were correct, they would not by themselves answer the whole case because, as I said yesterday, there are certain basic conditions which, overruling Pakistan's objections, the Commission laid down, and which are incorporated in these agreements.

Before I attempt to deal with these points seriatim, there are two matters which I wish to dispose of. One is that I see before me a draft resolution under the names of Australia, Colombia, Cuba, the United Kingdom and the United States of America. I want to say here and now that I am making this statement today without

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any reference to the resolution, and the reason I want this to go on the record is that I want the people of my country to appreciate that this resolution has been put forward by its five sponsors before hearing the statement of the representative of India—especially after I said last evening that I still had to argue this case. I am not making my detailed comment on it at the moment. All I want the Security Council to be seized of is this: For the purpose of this morning's statement, I am not taking this resolution into account.

The next point on which I want clarification or a ruling by the President is that I would request reference to sub-paragraphs (5)and (6) on pages 19-20 and 21 respectively, of the speech of the Foreign Minister of Pakistan, in document S/PB.761.

These refer to the good offices of Commonwealth Prime Ministers. Now if the reference implies that this matter came before the meeting of Commonwealth Prime Ministers, then on behalf of my Government I want to register categorical denial. I myself have been present at every meeting of the Commonwealth Prime Ministers since Pakistan and India became members of that group. There has been no meeting of Commonwealth Prime Ministers in the sense that these meetings which are usually convened at convenient intervals were devoted to this matter. This matter was sought to be raised by Pakistan and it was never agreed to be discussed.

If, on the other hand, the Foreign Minister of Pakistan is referring to private conversations that might have taken place between Prime Minister and Prime Minister, or with small groups of Prime Ministers, then I would ask for a ruling from the President. Either these paragraphs stand withdrawn or we have freedom to refer to confidential documents, because my Government cannot take up the position of having the name of our Governemnt and our Prime Minister and of his colleagues used in this way without referring to documents. I would therefore like to have a ruling from the President. I have the confidential reports of these conversations. We have regarded them as top secret documents. But I will take the responsibility so far as we are concerned, of going into their contents, provided that is the wish of the Security Council.

We cannot have allegations made from private doucments without opportunity to use those documents in rebuttal. Therefore I ask for your ruling, Mr. President. Either these paragraphs must stand withdrawn or I will quote from the documents.

The President: The President has heard the statement of the representative of India and he cannot make a ruling on any statements made in connexion with the question before this body. The representative of India has the right to make a reply as he chooses and to make such statements as he may make, as the representative of Pakistan also has the right to make his own statements and deny whatever the representative of India has stated here. But the President cannot make a ruling on a statement made by a representative before this Council.

Krishna Menon: With great respect, that is all I ask for, because the responsibility for the revelation of these conversations does not rest on the Government of India. When confidential conversations are referred to by responsible persons in a forum that is not concerned with that, then the Government of India has no alternative but to tell the whole story, and that is all I ask for. Therefore, I should like to refer to the first proposal of the statement of the Foreign Minister of Pakistan. It is necessary to refer to these allegations seriatim because we are not able to subscribe to these things and, what is more, they are contradicted or modified by the documents available to the Security Council in such a way as to make this picture very different from what is sought to be presented. I will read the first allegation:

(1) In March 1949, the United Nations Commission convened a joint committee of the Indian and Pakistan representatives, at which it was agreed that both India and Pakistan would sub-

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mit their plans for the withdrawal of forces to that committee. Pakistan did so: India first asked for more time and later refused to honour this agreement. (S/PV. 761, p, 19-20).

The charge is that the Commission asked for the withdrawal of forces, that Pakistan offered a plan and that we did not co-operate. If that were true in the way it was put, that is certainly a grave lapse on the part of the Government of India and may be counted as a point in part of non-performance. I now wish to refer to paragraph 229 of the third interim report of the Commission. The Commission has something very interesting to say about this:

In early March the Commission received the first concrete indication of the manner in which one of the parties envisaged the implementation of the truce...the Pakistan delegation held (a) that the objective of the truce agreement is to create a military balance between the forces on each side and (b) that the withdrawal of her regular forces depended upon plans acceptable to the Pakistan Government for the synchronization of this withdrawal with that of the bulk of the Indian forces.[1]

What I read out now is the Commission's findings. But in another part of the report, paragraph 169, the Commission says:

The Government of India did not agree with the premises on which the plans of the Pakistan delegation were based. The Indian delegation informed the meeting that it was unable to respond to the Pakistan delegation by presenting a similarly comprehensive plan, until a basis for agreement was reached. The meetings were adjourned. Subsequently, on 28 March the Commission received the Government of India's own views (annex 16)[2].

What is said in the statement of the Foreign Minister of Pakistan is that the Government of India did not submit its views: the Government of India refused to honour this agreement. But I will read out what the Commission said:

...the Commission received the first concrete indication of the manner in which one of the parties...

The Pakistan delegation held such and such a view, and as we pointed out before in our statement, the Commission had already rejected both the (a) and (b) proposals of Pakistan. Now the principle which the Commission had rejected, that was brought before the Commission. The Government of India reiterated its position. What is more, the Commission goes on to say that "on 28 March the Commission received the Government of India's own views". So both parts of that statement are inaccurate.

The next allegation is as follows:

(2) After many months of efforts, the United Nations Commission came to the conclusion that India was not prepared to withdraw the bulk of its forces from Kashmir and was seeking to cover this refusal by misinterpreting the Commission's resolutions on the subject. The Commission, therefore, proposed that the differences arising from the interpretation of the two resolutions—which constitute the international agreement on Kashmir—should be submitted to the arbitration of Admiral Nimitz, the designated Plebiscite Administrator. This proposal was endorsed by a personal appeal from President Truman of the United States and Mr. Attlee, the then Prime Minister of England, in August 1949. Pakistan accepted this proposal: India rejected it (S/PV, 761, p, 19-20).

Apart from the statement in regard to arbitration, there are two definite allegations here that the Government of India misinterpreted the resolutions of the Commission.

What are the facts? It is true that India rejected the proposal for arbitration that was made by the Commission at that time. And may I say, this was not a question of general arbitration; it was arbitration on the topic which we are talking about, and these were the reasons which should have been set out. The arbitrator in this particular case was to have the authority not only to arbitrate on the issue given to him, but also, if necessary, to determine the points on which he should arbitrate. I ask representatives on the Council to show me one instance in the whole law of arbitration where the arbitrator is asked to say what he is going to arbitrate on. That strikes at the root of all arbitration. Arbitration is usually the appointment of a tribunal, to whom a case is referred with a

[1]Security Council Official Records, Fourth Year, Special Supplement No. 7, para. 229.

[2]*Ibid* para 169.

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request to give an award or find a reconciliation between two points of view. In this case the arbitrator was asked to arbitrate on whatever he was going to arbitrate on. That is to say, he would be the plaintiff and the judge. This was a novel procedure and without precedent, and could hardly be justified; and I ask anyone to show me an instance in the whole international arbitration procedure where this has been done.

The main difference between India and Pakistan in this particular matter of arbitration was on the disbanding and disarming of the Azad forces—forces which Pakistan had all along denied were there. There was Pakistan participation; they did not communicate with the Security Council. The Security Council was happily passing these resolutions in total ignorance of what was going on, the information having been withheld, and, later when this matter came up, the Commission gave assurances to us. Mr. Luzano, who was Chairman of the Commission at that time, wrote a letter on behalf of the Commission, which I read out yesterday. The main difference between India and Pakistan was on the disbanding of the Azad forces, because we did not think that a plebiscite could be held, nor could we agree to the idea of an insurgent government being recognized; and certainly it cannot be the idea of the Security Council—as it seems to be the plan going around—that the Security Council is going to stand behind some sort of insurgent authority.

The Commission had given us the assurance that there was to be large-scale disbanding and disarming of these forces and it was on the basis of this assurance that India had accepted the resolution of 5 January 1949. This was, therefore, not a matter for arbitration but for affirmative or immediate decision.

This issue, on which there had been agreement between the Government of India and the Commission, formed the basis of the plan; otherwise we would not have accepted the plan. Before we accepted the plan, we had got this assurance from the Commission that there would be large-scale disbanding and disarmament. We said our position was that we would not be prepared to arbitrate on anything outside the agreed issues; otherwise, what was being asked was that the assurances given, the commitments undertaken on the basis of those assurances, would go by the board. I ask the Security Council whether any other action could have been taken by a responsible Government.

All the facts at that time were known to the Commission. The Commission had come to the conclusion that the presence of these forces constituted a material change. They have said many times in the report that this was what was standing in the way and the whole problem had changed on account of the introduction of these forces from Pakistan and the organization of this enormous Azad army of thirty-two battalions. There was really no genuine dispute, but what we are asked to do is to go to another issue altogether, to strike at the root of the agreement.

The withdrawal of the bulk of the Indian forces referred to in this paragraph was to be agreed between the Government of India and the Commission or its successor. That, as I read out yesterday, is one of the articles of the agreement. The withdrawal of Indian forces has nothing to do with the Government of Pakistan. In fact, Mr. Zafrullah Khan asked that he should be informed as to the plan of this withdrawal. That is to say, our military operations should be disclosed to him. The Commission rejected the idea wholesale. Therefore, it was said that this was a matter for the Government of India and the Commission or its successor. That was the position, and the reason, of course, was twofold. In the first place, India was responsible for the security of this State whose sovereignty had not been questioned. The Commission had said time after time that it could not recognize any other authority.

The forces considered necessary for retention on the Indian side of the cease-fire line had to be sufficient not only for the

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observance of law and order, but in accordance with assurances given to us by the Commission and also for the security of the State. Therefore, that was not a matter for arbitration. It had to be agreed upon between the Government of India and the Commission. That is to say, in the background of this resolution and the assurances there were certain things which were outside the discussion, namely, that this quantum, the past, and everything else were to be decided between the Government of India and the Commission. How can that go to arbitration?

Under Article 4 (*a*) of the resolution of 5 January 1949, the final disposal of Indian and State armed forces—and I said yesterday that the word "disposal" has been interpreted by India as "disposition"—which was to be with due regard to the security of the State and the freedom of the plebiscite, was to be determined by the Commission or its successor and the Plebiscite Administrator on the one hand, and the Government of India on the other. There, again, there was no room for an outside body. This was a bilateral arrangement between the Government of India, as the sovereign authority responsible for security, and the Commission.

If arbitration was to be according to the UNCIP resolution, which is all we accepted, Pakistan could not be a party to those arrangements—I laid stress on this yesterday; the Commission agreed that Pakistan had nothing to do with them and had no right to be consulted at all. It was not a matter for us to decide with Pakistan.

For similar reasons India objected to the Security Council resolution of 30 March 1951, which gave Pakistan the right to be consulted, even in vital matters affecting the security of Jammu and Kashmir. Further, if Pakistan was not in full agreement with India, the point was required to be decided by the arbitrator, in whose selection Pakistan would again have the right to be consulted. That is to say, we were asked to agree to the selection of an arbitrator by the two States in a matter with which it was previously agreed that one party had nothing to do. Thus, the resolution sought to reopen, in favour of Pakistan, issues that had been settled by the resolution of August 1948. I said yesterday that our position has been that everything that has followed from the Security Council after this resolution can only arise from that because the parent resolution was the basis of the plan, and this was an attempt to undo it, and we were not willing to agree to that. This later resolution sought to give Pakistan a voice in matters which Pakistan, as an invader of the State, had been rightly denied by the Commission. It sought to transfer to arbitration the right to make vital decisions on which the old resolution required India's agreement.

That is the answer to the second allegation. That is to say, it is true that we did not agree to arbitrate, but because we were asked to arbitrate on questions which were not amenable to arbitration, it changed the basis of our agreement.

In December 1949 the President of the Security Council, General McNaughton, acting as the Council's mediator in this dispute, formulated certain proposals for the demilitarization of the State of Jammu and Kashmir. Pakistan accepted these proposals; India rejected them.

What are the facts here? General McNaughton tried to place India and Pakistan on an equal level in this matter. Our position from the very beginning, irrespective of what the Security Council may say, has been that this is not a dispute over territory. This is a complaint about aggression, and, irrespective of the assumption that there may be flaws in India's claim that the invader has no rights, General McNaughton's proposals tried to treat us as though we were two co-defendants in that matter. What is more, he equated Azad Kashmir with the Jammu and Kashmir Government and gave the former also a status in the matter, despite the Commission's definite finding against it.

He gave a formal recognition, therefore, to this Government which not even Pakis-

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tan recognized at that time. Pakistan did not recognize the Azad Government—perhaps for other reasons, but there it is.

These proposals of General McNaughton failed to take account of our respective positions in this dispute and did not preserve the agreements of 13 August and of 5 January. This only puts before the Security Council the position that I stated yesterday and shows that it was not something that we made up for this meeting. This has been our consistent position all along.

Now we go to paragraph 4.

The Security Council then appointed Sir Owen Dixon and authorized him in March 1950 to bring about the demilitarization of the State within five months. He formulated the demilitarization proposals in July 1950 and discussed them with the Prime Ministers of India and Pakistan. Pakistan accepted those proposals; India rejected them.

First let me say, by way of introduction to this particular point, that the whole of the proceedings after 5 January are not concerned with the whole issue. They are only concerned with part 2, to bring about demilitarization—nothing else. It is a very small compass.

Sir Owen Dixon, now Chief Justice of Australia, went to India and to Kashmir and to Pakistan and he tried to establish, in the same way as General McNaughton did, a parity between India and Pakistan. What is more, he also brought in Azad Kashmir as though it were a *de jure* Government, and he also tried to establish parity between the State forces and militia on the one hand and Azad forces on the other.

It is not correct to say in this connection that we rejected Sir Owen Dixon's proposals. Sir Owen Dixon's proposals are interesting in this connexion. He came to two or three important conclusions—not that we accept them, but the Security Council should know about them. One conclusion he came to was that a wholesale plebiscite was neither desirable nor possible. So he suggested alternative plans for what has been called a compartmental plebiscite. At that time—and I want to say now that the Government of India is making no fresh commitment in this matter—we said we were prepared to look at it. We said at that time that we were prepared to examine this proposal, that is to say, to take a plebiscite over the different areas or perhaps agree that some parts had to go to India and other parts had to go to Pakistan. At that time we were certainly prepared to examine those proposals. It was not India that rejected them. Pakistan rejected them wholesale. That is the record.

However, there is something else that Sir Owen Dixon said. I referred to it yesterday and I shall refer to it again. That is that when they crossed the boundary they violated international law—a polite way of saying that they invaded another country.

Now I go to paragraphs 5, 6 and 7. I shall take all these together for your convenience, Mr. President, and the convenience of the Council, because they all deal with the same proposition. I should like to restate that there was no question of this Kashmir question being on the agenda of the Commonwealth Conference of Prime Ministers. The Government of India has objected and will continue to object to the discussion of this problem in any international forum other than the Security Council, which is seized of it. There has been participation by the United Kingdom, the United States, Pakistan, France, Iraq, Philippines and various other countries in attempts to raise this matter, in however superficial a way, in other forums, and we have on each occasion protested to each Government and said that it was a wrong action to take. We continue to do so, irrespective of the responses they make.

It would be very wrong for me simply to say that there was no Prime Ministers' meeting dealing with this or that no formal objection was made. There were conversations in 1951—I believe it was the second conference after India decided to become a republic. There were talks with Mr. Menzies, the Prime Minister of Australia. I believe that there were talks before with the late Mr. Mackenzie King. There were always talks on large numbers of subjects;

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some of them had nothing to do with this matter at all. There was also an occasion when Mr. Menzies and Mr. Attlee sat together with my Prime Minister for a private conversation, and Mr. Liaquat Ali Khan, the Prime Minister of Pakistan, was also present.

In view of the delicate nature of Commonwealth relations and the bringing in of the names of these Prime Ministers, and for various other reasons, which will become more apparent when I read this resolution—and if I can claim the attention of the representative of the United Kingdom—I should like to read this note recorded at that time by my Prime Minister:

This evening I attended an informal conference about the Kashmir question. This was originally fixed to be held at 10, Downing Street, but, owing to Mr. Menzies' illness, it was decided to hold it in Mr. Menzies' room at the Savoy. We met at 8-30 p.m. The Prime Ministers of the United Kingdom, Canada, Australia, New Zealand, Ceylon and Pakistan were present. We discussed the matter for about an hour.

I might recall here that the reason for having this informal meeting was that we had refused to have the matter discussed formally in the Prime Ministers' Conference.

Mr. Menzies and Mr. Attlee made some preliminary remarks about the extreme desirability of the Kashmir issue being settled, more especially because of the world situation. They referred to a plebiscite having been agreed to and only the conditions relating thereto being subject to dispute. Mr. Menzies expressed his opinion that probably a limited plebiscite would be more desirable. He added that, as there were legitimate apprehensions in the mind of India in regard to the security of the State, it should be easily possible for a brigade or so of Commonwealth troops to be placed there for security reasons till the plebiscite ended. Australia would be glad to provide such troops as it was thought it would be a service rendered to the cause of world peace. Some reference was also made to the heavy expenditure on the defence of India and Pakistan. (Krishna Menon: Then my Prime Minister gave his reply.)

Mr. Attlee then turned to me. I said I was at least equally desirous of a settlement of the Kashmir question. This was to the advantage of both India and Pakistan, and we had made many attempts but thus far without success. They show obviously that it was not quite so simple as it appeared on the surface, or otherwise it would have been settled long ago. No doubt it will be settled sooner or later. I gave a very brief account of some of the difficulties and points that had arisen and added that two aspects were prommently before me. One was that no steps should be taken which might lead to an upsetting of the somewhat unstable equilibrium that had been gradually established between India and Pakistan during these past few years.

There was a grave danger that if a wrong step was taken it would rouse passions all over India and Pakistan and raise new issues of vital importance. That would be a tragedy.

The second point was that I could not deal with any proposal without reference to my colleagues in Delhi and Kashmir. So far as the Government of India was concerned we had gone there on the invitation of not only the legally constituted Government but also the largest popular party. Our responsibility was confined to defence, foreign affairs and communications. For the rest, the State Government was responsible, and we could not interfere with its discretion though we could advise them. It was neither possible nor advisable for us to come to a decision without the concurrence of the State Government.

This was in the early stages of our accession. The relations had not yet been built up.

Then the Prime Minister of Pakistan stated that the said Governments were just puppets appointed by me, and I could remove them or change them at any time. I took exception to this and told them something about the background of Kashmir and the National Conference and Sheikh Abdullah.

I had given a very brief resume of the events in Kashmir in the last few years, finishing up with Dixon and the proposals. I pointed out that Dixon had concluded that an over-all plebiscite was not feasible and had therefore explored the possibility of a partial plebiscite. To the general principle of this I had agreed, subject, of course, to the other matters connected with it being considered and decided upon.

I made it clear that there was no point in discussing these matters until the principle was accepted by Pakistan (Krishna Menon: because at that time, in the discussions with Menzies, this agreement was to be by Pakistan and not by us, because we had agreed, subject to details, to the principle that Sir Owen Dixon had put forward.)

Mr. Liaquat Ali Khan indignantly repudiated this. The Prime Minister of Pakistan thereupon said there was no question of an over-all plebis-

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cite not being feasible. There might be some difficulties, but obviously it could be done. I agreed that it could be done, though it might take time.

The question of feasibility did not refer to the practical difficulty of having an electoral roll, but, according to Dixon, to various other factors (Krishna Menon: which are set out in the Dixon report and some of which are referred to briefly in these conversations. I continue to quote):

Mr. Menzies stated that he had not been able to understand why the Government of the State (Krishna Menon: this is important because it comes from Mr. Menzies) should be pushed aside or suspended because of the plebiscite (Khishna Menon: and here I would point out that that was exactly what Pakistan was pressing for. Mr. Menzies went on):

It could very well continue, although matters connected with the plebiscite might be handed over to the Plebiscite Administrator. Attlee agreed with this.

Now, the Government of India, I would recall, has raised no objections in this connexion—provided other conditions are satisfied. The conversations among the Prime Ministers then touched on the ethnic and linguistic divisions of the State. I quote from the conversations:

I told them, also, that there was a basic difference between our approach and Pakistan's to the two-nation theory, and the insistence on religious differences coming into politics. While we had reluctantly accepted certain facts we never accepted the theory, and we were not prepared to apply it to Kashmir in any event. (Krishna Menon: and here the reference is to the theory of a Muslim State and a Hindu State). That would be bad for Kashmir, but would be worse still for India and for Pakistan. It would go counter to the principles that governed us and might produce upheavals both in India and Pakistan. We had only recently witnessed an upheaval of this kind in Bengal, which had with difficulty been controlled by the Agreement between the two Prime Ministers.

Mr. Attlee pointed out rather warmly that past history did not quite fit in with what I had said. The division of India had largely been based on a religious basis. He did not like this religious basis at all, and he had tried to avoid it, but facts were too strong. Further, he said that ethnic and linguistic divisions were equally dangerous, and we in India were having to face this difficulty in various parts of the country. I said that we were not enamoured of ethnic and linguistic divisions, but, in the circumstances, we certainly thought that any religious approach to a political problem was dangerous and explosive. We had never accepted that principle, and we did not propose to do so in the future. Right from the beginning of the Kashmir trouble, we had laid stress on this fact and had informed the United Nations Commission repeatedly that this appeal to religion must be avoided. In spite of this, the Pakistan Press was full of religious appeals and calls for *'jehad.'* (Krishna Menon: that is, holy war).

If this kind of thing was going to take place before and during the plebiscite period, then there would be no plebiscite but civil upheaval, not only in Kashmir but all over India and Pakistan.

Mr. Menzies then said that he quite agreed that religion should be kept out of the picture, and he had been much disturbed when he saw the Pakistan Press in Karachi (Krishna Menon: And this is Mr. Menzies speaking, not the Government of India, which was writing most irresponsibly on this subject.....

The Prime Minister of Ceylon was silent throughout. Mr. Attlee then referred to river waters in connection with Kashmir and mentioned the international committee set up by Canada and United States. I mentioned that Mr. St. Laurent had drawn our attention to this last year, and I had stated subsequently that I would be perfectly agreeable to having subsequent consideration of the water problem as between India and Pakistan.

The delegation of Pakistan has not raised this objection during this series of meetings of the Security Council, but, had they done so, we should have had the answers. I continue to quote from the conversations of the Prime Ministers:

The Prime Minister of Pakistan at one stage referred to ethnic divisions of Kashmir and said that, if necessary, a plebiscite could be held separately in these areas. At no time, however, did he accept the idea of a partial plebiscite. He insisted on an over-all plebiscite for the State, though this might be taken separately in different areas—presumably to allow these areas to decide for themselves.

As Mr. Menzies was not feeling too well and had a high temperature, the conversations ended rather suddenly at about 10 p.m. Mr. Menzies concluded it by saying that we might perhaps think over the various suggestions made in the course of the conversations. These were, according to him, that, firstly, the State Government should not be touched. (Krishna

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Menon: Now, this is Mr. Menzies' opinion) and should continue except in regard to functions relating to the plebiscite; secondly, the Commonwealth might provide a security force and thirdly, the plebiscite might be held in different areas.

In the course of the conversations, no reference was made either by Mr. Liaquat Ali Khan or by me to the proposal about a Commonwealth force being sent. There was no mention of these talks being resumed.

I am sorry to have had to read out this long document. However, we have other matters to consider in relation to the countries involved—particularly in relation to Australia, which, though separated from India by miles of sea, is a very close neighbour of ours; in fact, we hope, as time goes on, to establish even closer relations with Australia than we now have. That is why I have read out this document.

The President: I call on the United Kingdom representative on a point of order.

Sir Pierson Dixon (United Kingdom): I am sorry to interrupt the representative of India, but I should like to make this brief observation.

Of course, I fully recognize that, since the representative of Pakistan has made an allusion to the discussions among the Commonwealth Prime Ministers, the representative of India naturally wishes to say something in that respect. I should, however, like to put this consideration to him, through the President: Of course, Mr Menon is perfectly free to do what he likes in this respect, but, in view of the particularly intimate nature of these discussions among the Commonwealth Prime Ministers, I wonder whether it is desirable to give this textual account which he has been giving. I say this simply with the object in mind of preserving what is a rather special and particular institution—an institution which the three representatives of Commonwealth countries seated round this table value greatly, I know.

The representative of Pakistan made an allusion to these discussions. It seems to me that a summary is quite different from a textual account.

I have raised this point of order merely as a domestic concern of the three representatives of Commonwealth countries seated at the Security Council table.

Walker (Australia): I should like briefly to associate myself with the remarks made by the representative of the United Kingdom and to endorse his suggestion that it might be preferable if we did not follow the practice here of going into private conversations. I would just emphasize the fact that Mr. Menon read from his own Prime Minister's account of the private meetings. It has not been the practice in the past to publicize such private conversations. Of course, I recognize the right of the representative of India to bring before the Security Council any material which is at his disposal.

The President: The position of the Chair on the point of order raised is clear. On matters mentioned by representatives before this Council, if they are not insulting or libellous, the Chair cannot make any ruling. However, the representatives of the United Kingdom and of Australia have made an appeal to the representative of India, and I refer that appeal to him.

Sir Pierson Dixon (United Kingdom): I think that I may have spoken of three members of the Commonwealth; of course, I meant four.

Krishna Menon: I do not intend to take seriously Sir Pierson Dixon's forgetting one member, the sub-conscious mind projecting itself. I am prepared to leave it at that.

I must say that this intervention by the representatives of Australia and the United Kingdom is most extraordinary at this stage of the discussion. I can only conclude that, because of the general fatigue caused by listening to me, they could not have heard the point I raised with you, Mr. President. That would have been the time for the representatives of the United Kingdom and Australia to have said that they agreed with the representative of India that these matters should not be aired here, so let the re-

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presentative of Pakistan, who has circulated these allegations all over the world, formally withdraw them. I am surprised beyond measure to see a diplomat of the experience of Sir Pierson Dixon telling me that when charges of dishonesty, charges of a serious character of breaking an agreement and of not trying to honour the second part of this statement of the representative of Pakistan, I should not reply to them.

I presumed that the representatives of Australia and of the United Kingdom would have read the statement of the representative of Pakistan. What does it say? At the end of paragraph (5) it is stated "India rejected it." (*S/PV.761, page* 19-20) At the end of paragraph (6) it is stated "Pakistan accepted this proposal; India rejected it". (*Ibid, page* 21) At the end of paragraph (7) it is stated "Pakistan accepted this; India once more rejected it" (*Ibid*). The same thing is repeated all the time. These are definite allegations which reflect upon my Government and upon the Prime Minister of India, who participated in these conversations. I was entitled to read them, and my responsibility lies only with my Government.

Secondly, I should like to say here that I yield to no one in my desire to maintain Commonwealth relations, and I suppose that in my time I have contributed as much to this as anyone else at this table. I deeply regret that Sir Pierson Dixon did not raise his objection before, and I resent the observation of the representative of Australia that the account I was reading was my Prime Minister's account, thereby imlpying that it is not to be trusted. That may well be, but there is a different way of putting it. In that case, since the matter is now in court, let the Prime Minister of Australia come here and say what happened.

The time for this point of order was earlier than now, but even at this time I am prepared to have it taken out of the record, provided that the representative of Pakistan takes paragraphs (5), (6) and (7) out of the record. Why does this extreme sensitivity arise in regard to us? Why did not the representative of the United Kingdom, as the senior member of the Commonwealth, jump up and say, "It is not right for you, who are so close to us, tied to us with military alliances, and whom we have always supported. Why don't you withdraw this, since it is not decent to refer to private conversations?".

Am I to sit here and hear my Government challenged, and not use the material at my disposal? I went out of my way when I came here this morning to try your patience, Mr. President, by asking you to deal with this matter, and I think it is entirely wrong that an attempt should be made to convey the impression that we are behaving in a way that is inconsistent with all the nice things that the representative of the United Kingdom said. One way to preserve Commonwealth relations is to appreciate that it is a two-way relationship.

Sir Pierson Dixon (United Kingdom): in view of what my colleague from India has said, I must make it clear that all I appealed to him to do was not to read out the textual account of these private conversations. I did not suggest that he should make no allusion to them, because my colleague from Pakistan has already made that allusion. As I said when I raised this point, clearly my colleague from India will wish to make a reply. The only point I was making, and I had hoped it was clear to the Council and to my colleague from India, was to suggest to him the undesirability of reading out a textual account which, as we have heard, contains a lot of quite intimate remarks about people's health and that kind of thing. It does not seem to me that it is conducive to the development of this discussion to do it in that way, and I should have thought that was a perfectly reasonable point.

With regard to the time when I should have raised that point, that surely is entirely within my discretion. I must say that it never occurred to me that Mr. Menon would in fact read out actual textual accounts Had I thought that, I might have raised the point when Mr. Menon asked for a ruling.

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Walker (Australia): I said that I thought that the representative of India was at liberty to use any material and information at his disposal. In my concluding remarks, I only intervened in support of my colleague, Sir Pierson, to reinforce his appeal that detailed records of these private conversations should not be read out here if that could be avoided. I think that Mr. Menon misunderstood my remark that the record from which he read was his own Prime Minister's record. At private conversations the various participants normally keep their own records, and it is certainly not my intention to introduce any such competing material or to make any suggestions at all regarding the accuracy of the record kept by the Prime Minister of India. I just did note that the document being read from was not an official report of the Conference but just a private record.

The President: While it is interesting to listen to this British Commonwealth family discussion, an appeal has been made to the representative of India, and the representative of India may proceed.

Krishna Menon: With great respect, I submit that this is not a "family discussion". It is a point of order raised in connexion with the proceedings of the Security Council. If, in the exercise of your office as President, you at any time call me to order I will obey you. But I am not going to be pushed into the position of not stating the position of my Government. I look around this table and I know that I have got to fight my battles. We will see more about it in the subsequent meetings. The record is there.

I stated categorically and very plainly that I was going to read the notes of these discussions and that is in the record. Therefore, there can be no reason for Sir Pierson Dixon to tell the Council that if he had known or if he had thought that this was so intimate as this, something else was going to happen—I do not think that is correct.

In what position is the representative of the Government of India? Certain allegations are made about a private conversation by one party, a conversation at which I was not present. Would the Council have been satisfied if I simply had said that paragraphs (5), (6) and (7) (*S/PV.761, pp.* 19-20, 21) are inaccurate or if I had given an incorrect narration of it? When the representative of Australia tells me "That is your Prime Minister's record", he should have told me that "That is your version of what your Prime Minister's record is." That would be another step removed. Therefore, I had no option; but at the same time, if I am allowed to, I will make an appeal to Sir Pierson Dixon to exercise some degree of fair play in dealing with different members of the Commonwealth—at least in public. As an earnest of my intentions, I am prepared, if the President agrees, that in the written record a summary which does not relate to the matters which are relevant to these items (5), (6) and (7) may be included. The only reason I read everything out was that I did not want it to be said afterwards that I was selecting extracts. Therefore, as I said, I do hope that the representative of the United Kingdom will be able to follow the practice that has obtained in the past of at least in public exercising some degree of fair play as between two members of what the President calls "the family". The objection should have come several days ago when these items (5), (6) and (7) were read out. I should have objected then, but I did not want to interrupt because the President would have called me to order as I am not a member of the Security Council. I therefore say as an earnest thereof that I am prepared to have inserted in the official records only, if the President agrees with us that that is a correct summary of what I said here, a summary of the contradictions or the untrue allegations that are made in these paragraphs (5), (6) and (7). I think that in the position we find ourselves here it is necessary for me to substantiate every statement I make from the record. It may be boring, but then we have suffered in the past in this discussion by trusting too much to the good sense of everybody all around. We therefore propose to state our case in such a way that

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at least posterity will know where the truth is. Therefore, this is my response to the appeal of Sir Pierson Dixon. I do not expect any response in return. Not that it would not come, but I do not expect it. Is that agreable to the President?

The President: Yes.

Krishna Menon: Now we come to paragraph (8) (*S/PV.761, p. 21*) which refers to some mediation or some endeavour by the then President of the Security Council, Mr. Muniz. This is the same point about arbitration, so I do not want to repeat the argument which I have given. Paragraph (9) also relates to the same thing.

Paragraph (10) relates to the intervention of Dr. Graham, the United Nations representative, stating that he "put forward a number of proposals on the subject of the demilitarization". It states that "each one of these was accepted by Pakistan, but rejected by India". Now, there can be no objection to going into the facts of this case because Dr. Graham is not a member of the Commonwealth. The full position in regard to paragraph (10) is that India also accepted and not, as was said here, that India rejected it. India accepted the proposal that demilitarization should be a single and continuous process. That is the first denial. The second is Pakistan's assertion that it accepted without exception all demilitarization proposals which were rejected by India; that is not correct.

Dr. Graham suggested in his proposals of 4 September 1952 the following criteria for fixing the quantum of military forces on each side of the cease-fire line, the actual figures to be decided at a conference of civil and military representatives of the two Governments. On the Pakistan side of the cease-fire line a minimum number of forces are required "for the maintenance of law and order and of the cease-fire agreement, with due regard to the freedom of the plebiscite". That is Dr. Graham's proposal.

On the Indian side, a minimum number of forces are required "for the maintenance of law and order and of the cease-fire agreement, with due regard to the security of the State and the freedom of the plebiscite". India considered that these principles—and this is where the contradiction comes in, the contradiction to the Pakistan allegation—were conceived in the right spirit and as a basis for the evolution of a suitable definition of functions of the forces on both sides of the cease-fire line.

India considered that the principles contained the germ of a settlement but despite several efforts to evolve a suitable draft in terms of the language used in the Commission's resolution, no understanding could be reached with the Pakistan Government. Paragraph 10 says it was accepted by Pakistan and rejected by India; the facts are exactly the reverse.

From the informal discussions in the Indian and Pakistan Committees in December 1953, the Indian Committee suggested that after the withdrawal of the Pakistan Army the disarmament of the Azad forces which, as will be remembered, was part of the assurances, and the withdrawal of the bulk of the Indian forces, there should remain 21,000 Indian troops in addition to the State Militia on the Indian side and a Civil Armed Force of 6,000 men on the Azad side, half 'Azad' half 'non-Azad', all of them armed, if necessary. The Indian side therefore made some concessions in this matter: first, a substantial increase in the civil armed forces on the Pakistan side, which was totally against the assurances that had been given to us, from the 4,000 originally proposed to 6,000; secondly, the readiness to come to a satisfactory solution about the ratio between the armed and unarmed forces, as well as the type of equipment to be supplied and even to the extent of the civil force being armed, if necessary—previously India had insisted that half of the force should be armed and the other half unarmed; thirdly, acceptance of the Pakistan point of view about the security of the northern areas and the consequent need for the retention

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of their scouts, that is to say, as a matter of compromise although it no longer binds us—and I want that to go into the record—we even agreed that in the places which these people have militarily occupied we were prepared to recognize the existence of the scouts which were established, as I shall point out later, under the British administration and who surrendered this territory without anybody's authority. In spite of these concessions, the Pakistan Committee did not accept these proposals. I ask whether that corresponds to the allegations made in the paragraph referred to.

Paragraph 11 deals with the resolution adopted by the Security Council at its 611th meeting, urging:

> ...the Governments of India and Pakistan to enter into immediate negotiations under the auspices of the United Nations representative for India and Pakistan in order to reach agreement on the specific number of forces to remain on each side of the cease-fire line at the end of the period of demilitarization, this number to be between 3,000 and 6,000 armed forces remaining on the Pakistan side of the cease-fire line and between 12,000 and 18,000 armed forces remaining on the Indian side of the cease-fire line.[1]

Our answer to this is that while the Government of India could not accept a resolution which suggested a number of forces which in India's view was insufficient for security, the Government of India did enter into further negotiations with Dr. Graham —and it is only normal to suggest that the Government of India must be the judge of what forces are required for the security of the forces themselves in this very large area. There was no question of total rejection at that time; we did enter into negotiations with Dr. Graham afterwards.

That concludes the comments with regard to the allegations made. It will therefore be seen that out of these eleven statements made, every one of them is incorrect. In the majority of them, the position is exactly the reverse. And if arguing a case before this body has any value on the decisions it makes or any impact on the Governments represented here, I beg to submit that this refutation, with chapter and verse from the documents, must be regarded as an important item.

Therefore, the charges of non-performance, in my submission, are wrongly laid at our door. On the other hand, while we are not responsible for the conditions of non-performance, as I have already pointed out, we went a long way, even departing from the assurances we had received, even allowing these rebel and Pakistani forces on the other side to be armed and virtually taking into account the position that time had passed and some crystallization had taken place. All that went by the board. Therefore, it is not as though we did not try very hard, it is not as though we did not meet Dr. Graham or Sir Owen Dixon, or any of these people, or even that the Commonwealth Prime Ministers agreed with the view of the Pakistanis.

At this stage, especially in view of the intervention of the representative of Australia, I will take the liberty of reading paragraph 21 of Sir Owen Dixon's report to the Security Council which is an important paragraph. And if the Security Council decides, and I hope it will, that the primary concern is obedience to the Charter and the sanctity of the provisions of the Charter with regard to territories, then it will pay heed to this. This paragraph states:

> Upon a number of occasions in the course of the period beginning with the reference on 1 January 1948 of the Kashmir dispute to the Security Council, India had advanced not only the contention to which I have already referred that Pakistan was an aggressor, but the further contention that this should be declared. The Prime Minister of India, at an early stage of the meeting (Krishna Menon: that is, the meeting with Sir Owen Dixon) made the same contention and he referred to it repeatedly during the conference. I took up the positions, first, that the Security Council had not made such a declaration; secondly, that I had neither been commissioned to make nor had I made any judicial investigation of the issue; but thirdly that, without going into the causes or reasons why it happened, which presumably formed part of the history of the sub-continent, I was prepared to adopt the view that when the frontier of the State of

[1] (*S/PV. 761, page 21*)

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Jammu and Kashmir was crossed, on I believe 20 October 1947, by hostile elements, it was contrary to international law, and that when, in May 1948, as I believe, units of the regular Pakistan forces moved into the territory of the State, that too was inconsistent with international law (S/1791, *page* 29).

We have not held back anything that is used against us. But this was the finding of one of the investigators who, on balance, was not favourable to the Indian position and had a considerable number of reservations. But on this issue, with his judicial training and with the facts before him—and every lawyer knows that whatever may be the right of the occupant, no trespasser has a right to priority—he said that. So here is a categorical statement in a report of the U.N. Representative that there was an aggression.

Therefore, we say that, even assuming for argument's sake—which I do not assume and I do not ask the Security Council to accept—that India has not been forthcoming in all these matters, the primary question remains that Pakistan came here as an invader; it trespassed into territory which was not its own; it tried to change the situation by force of arms—we did not obtain accession by force of arms—it tried to unite Kashmir with its country by force of arms and, what is more, the worst part of it was that it did not keep the Security Council informed about it and kept the information away from the Security Council not only once but continually and this has been repeatedly referred to in the report of the Commission.

Another condition that the Commission laid down—and as I said before they were obsessed by this conception of the cease-fire when this agreement was concluded—that they realized that it was necessary to create an atmosphere of settlement. Our submission and the statements of Pakistan Ministers are included in document 2. I want to say that this document is not up to date or even complete. A great amount of vitriolic abuse has been showered on our country and our statesmen by name, some of which is unprintable and some of which I would like to read out later. There is so much that I can give you only samples.

That is, in our opinion, a serious condition that has seriously affected the non-implementation. That is to say, it is not possible to agree to open out one's country to the entry of other people during a plebiscite period or to throw the whole of the established conditions into an unsettled state when, on the other side, there is always this campaign of war. Some of these statements, which I do not propose to read out, are by members of the Legislative Assembly. The Pakistan Government may say that they are not by the Government—but they are Government statements. There is the press of Karachi, and papers founded by Mr. Jinnah himself, and statements of their own Ministers.

For example, there is a statement by Sardar Abdur Rab Nishtar, who was at one time in charge of Kashmir affairs and was the Governor of West Punjab—not an irresponsible person. This is what he said:

> Mr. Nehru understands only the language of force. We will have to exhibit our strength if we want to take Kashmir.

Another statement:

> We would not mind being cut into pieces but will certainly conquer Kashmir.

These are the people who accepted the agreement.

Then there is this statement by the Chief Minister of the North-West Frontier Province, from whose territory these raiders came in the beginning:

> You can take it from us that the day we become desperate and lose all hopes of a just solution of the problem, not only the entire Pathan population of Pakistan and the tribal areas will rise up for the holy 'Jehad' in Kashmir, but our brothers from across the Afghan frontier will also throw in their lot with us for the cause.

That is an invitation to another country for a military attack upon our own people. The Governor of West Punjab, Sardar Abdur Rab Nishtar, also made this statement:

> So long as a single Pakistani is alive, nobody dare snatch Kashmir from Pakistan by force.... If the problem is not settled immediately, the

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whole of Asia would be engulfed in the flame of war which might lead to a world conflagration.

The *Times of Karachi* of 16 August 1956 contains the following report of a statement made by Chaudri Mohamed Ali, who was then Prime Minister of Pakistan and who is, I believe, coming to Washington shortly as Ambassador:

'I am ready for the liberation of Kashmir', he said, and added, 'but I want the people to get ready'. The freedom of Pakistan would not be complete without Kashmir, he asserted, and exhorted the people to acquire the spirit of unity, faith and discipline....He said the Kashmir dispute was now going before the Security Council (Krishna Menon: that refers to this meeting), but asserted that the nation would not rest there.

That statement was by the Prime Minister, by a man who is reputed to be a man of extreme moderation in language. We are told in his statement that this reference to the Security Council is only preliminary to other action. That is what the Foreign Minister of Pakistan told us the other day—and I shall refer to that later. That is to say, the Security Council is to be given a chance—but, if necessary, "we will do something else".

It would be taxing to the Council if I were to read a great deal of this material. Some of it, as I have said, is from the newspapers, and any Government can say "We have a free press and they can print what they like"—though it may not correspond with the facts that obtain in a particular place.

The Chief Minister of West Punjab had this compliment to pay to the Security Council:

If the United Nations proves to be a band of thieves (Krishna Menon: that is all of us) we will have nothing to do with it. We will prove that we can liberate Kashmir with the strength of our arms.

In this particular matter, it is also to be noted that even foreign observers who are not friendly to India in their comments on these matters, such as magazines published in the United States, have pointed out that the whole conception of the State of Pakistan in regard to its alliances is to attack India.

Here is Mr. Falk, of Chicago, in *Newsweek*:

Pakistan is taking the United States for a ride. This is evident from your report and from my observations in that country, where I worked until recently. Pakistan thinks it did us a favour by joining SEATO and the Baghdad Pact. They do not worry about the danger of Russian aggression. Pakistani leaders merely humour our concern about Communist expansion in order to get economic and military 'Bakshish' and to strengthen their hand against India.

And here is Mr. A. T. Steele, writing in the *New York Herald Tribune*:

The average Pakistani thinks very little about the Communist threat if he thinks of it at all. His hostility is toward India rather than the Soviet Union. And he assumes that in the event of a showdown with India, the American military supplies will be drawn upon.

In regard to these last two statements, I want to say that our quoting from them has no reference whatsoever—and I want to say this categorically—to the intentions of the United States in regard to this matter. We are talking only about Pakistan opinion.

I will put these statements aside now. One could read all of them—and I hope the members of the Council will. They do not make very pleasant reading, but it is reading that is pertinent to the argument that we have put forth.

Then we have the situation involving the whole constitution of Pakistan itself. That is entirely an internal matter and we have no wish to interfere in it. But in so far as it affects this situation of a State which is heterogeneous in character, where the people who do not belong to the Islamic religion do not have equal rights with the others in certain respects and—if that is challenged I will quote from the constitution, if it comes to that—it is not possible for us to take the view that the campaigns that go on are not of this character.

The next point I wish to refer to relates to the various violations that have taken place. And I want to say here and now that my Government does not wish to make a point of the normal kind of skirmishes and crossings of the frontier that can take place on a military cease-fire line which represents no natural division but is a line which

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is reached for convenience, so that the local villagers may not know about it, may go and snatch cattle, and so on. We are not referring to that kind of thing.

There have, however, been major incidents. I do not want to burden the Council with a description of a whole set of them. I shall therefore refer to only one—and that is what has been called the Nekowal incident.

Nekowal is a small village on the Indian side of the Jammu-Sialkot border. I refer to this incident because it developed into the proportions of a minor battle. On 7 May 1956, the Pakistan border police—and these police are not just boy scouts in uniform, but armed police—opened fire without warning at an Indian party consisting of Major Hadhwar, an officer on loan to the Central Mechanized Farm—he was there not on military duty—nine civilian employees and a small military escort of eight persons who were supervising the ploughing of land at a distance of about 500 yards from the village, on our side.

As a result of the firing by the Pakistanis, Major Hadhwar and five other ranks and six civilians were killed, and one of the other ranks was wounded. We lost an officer and five men there.

On 8 and 9 May, the United Nations observers conducted a joint investigation at the site of the incident, on a complaint lodged with the United Nations observers' team at Jammu. The observers declared this incident to be a border violation by the Pakistan border police.

Immediately on receipt of the information about this incident, the Government of India lodged an emphatic protest with the Government of Pakistan and, in accordance with the internationally accepted principle for claiming compensation, demanded compensation of the Government of Pakistan, in the amount of 1,200 thousand rupees, for the moral and material wrong done to the Government and nationals of India as a result of this incident.

After a long correspondence in regard to the liability to pay compensation—not with regard to the incident, but with regard to the liability to pay compensation—the Prime Minister of Pakistan wrote as follows on 19 May 1956, and I should like to say that this is not a private letter but one that has been quoted in Parliament:

> While, for reasons given above, I do not consider that my Government is at all liable to pay any compensation in respect of the Nekowal incident, I am personally conscious of the human suffering involved in an incident where a number of lives have been lost. Having regard to this aspect of this matter, we would be prepared to make an *ex gratia* contribution of one lakh rupees to the rehabilitation of the relatives of those who lost their lives on the Jammu side of the frontier.

The point about this is that we agreed to this *ex gratia* arrangement in order not to exacerbate the situation.

This is only one of the incidents that have taken place—and, by the time the United Nations observers get around to it, the trouble has already occurred.

There have been a considerable number of attempts at probing our frontiers. If I so desired, I could have given you a number of instances. They have taken place not only on the cease-fire line—and I am confining myself to Kashmir—but there have been offensive actions against us on the Indo-Pakistan border. And may I say here that we have few troops on this border. When statements of that kind are made, they are inaccurate. We have armed police outposts. And there have been skirmishes which have resulted in considerable loss of life in one or two instances, in which the army had to be called in.

Therefore, the responsibility for non-performance in regard to the conditions of Part II, in regard to the violations of international law, in regard to the campaigns of hatred that go on, and in regard to the non-maintenance of the peaceful atmosphere, is not on our side.

There is one other aspect of this item that I want to mention before I leave it, and that

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has to do with the northern areas. The northern areas are those areas of Chitral, Gilgit and Baltistan—there is a map attached to one of these documents—which are very sparsely populated areas and which, to a very considerable extent, even under British occupation, have been left to the people who were there. In this area, first of all, Pakistan—against the resolutions of the United Nations—has annexed territories and incorporated them. What is more, such incorporation had taken place before the resolutions of the United Nations, and the United Nations Commission was not informed about these matters; they came to know about it later. Now, what happened in regard to this area known as Gilgit, which is strategically very important to India and for its defence, where in the British days there was a body called Gilgit Scouts under British Command? The territory was handed over to the Maharajah by the British when they left. Therefore, there is no question of this not being part of Kashmir. And the Maharajah sent there a Governor, and what was done was that these Scouts arrested the Governor under the Command of Major Brown. On 31 October the Gilgit Scouts led by Major Brown and other officers—presumably of the Pakistan Army—surrounded his house and he never suspected that these people were going to attack him. But there were rifle shots exchanged and one round was fired in the air to frighten them away. But what happened was that this man arrested him, put him in prison and handed over the territory. Major Brown made a declaration, or something of that kind, and it was through him that this particular territory went over to Pakistan.

The point here is this, that there has been not even a popular rising in this place. The custodians of this area were the Scouts under British Command. The British Government had no responsibility in this matter because after they handed over the territory the Scouts remained as an independent force. But the British personnel handed over this territory and the accession was received from them. Now in view of the time, I propose to make that story very short. It is now occupied; it has been incorporated, and there is a considerable army in that area.

The other area to which I want to refer is Chitral. Chitral is mentioned as one of the territories of Pakistan in the Pakistan Constitution. Therefore, it is an outstanding instance of annexation *de facto* and *de jure*. And the Commission has said time after time that there can be no change in the sovereignty.

It is sometimes argued that Chitral was not part of Kashmir. But there are the records of the British Government, most of which are in our possession, which show that this area was under the suzerainty of the Maharajah of Kashmir, and all those territories that were under suzerainty were part of the State. Irrespective of the value of Chitral to one side or the other, and whatever may be done in the far future if ever there was an agreement between the two sides; the annexation of this territory, the receiving of accession from a former feudatory to the Maharajah who had no right to do so, is a direct piece of annexation.

Then there is the other argument, the final argument, in regard to non-performance, that the whole of the position of Pakistan in regard to the conclusion of the truce, if one were to summarize it briefly and state it in one point, which probably would not be as accurate as it should be, is that they insist on what they call a military balance. That military balance has been rejected by the Commission. I wish to refer the Council to paragraph 2 of annex 12 of the third interim report which says:

> The Commission, however, cannot accept the interpretation that 'the declared objective of the truce arrangements is to create a military balance between the forces on each side'. There can be no other objective of the truce arrangements than to establish peaceful and normal conditions throughout the State such as will be conducive to the organisation and holding a plebiscite. Similarly the process of synchronizing the withdrawal of the Pakistan and Indian forces to be arranged between the respective high commands and the Commission, in effect tends to create a

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corresponding situation on either side as withdrawal of one and reduction of the other, but in no way does this affect the ultimate aims of the resolution of 13 August...[1]

I will not read the other paragraph in view of the time, but I would like to refer to paragraphs 203, 204 and 225 in the same report which deals with the same problem; that is, that the Commission has at no time agreed to the idea of military parity or a military balance. If it agreed to a military balance, then it would mean placing these two sides in a position of equality. The position which the Commission held was that it was inconsistent with the sovereignty of Jammu and Kashmir, inconsistent with the reference of the Security Council and, what is more, a condition in which the security of the State could not be maintained.

I shall now deal with the position to which I made some references today in quoting to the Council the international practice in regard to the interpretation of treaties and what are the conditions that should govern. I am not going to repeat that, nor am I going to quote legal doctrine. But there is a well established legal doctrine, which has supporters in the United States of America and the United Kingdom, and which says that the passage of time and the change of circumstances must affect the nature of agreements reached. That is a very commonsense proposition. It is not necessary to quote Latin phrases in support of it.

First of all, with regard to this time factor, the Commission, and India, and I presume, if I am not contradicted, Pakistan, expected the operation of part 3 of the agreements, that is the plebiscite, to be taken in reasonable time.

In that background that the plan was accepted with all its reservations, is it reasonable to expect that it would stand still in regard to the territory of Kashmir, over which India has active control, in the social, economic or political respects, taking into account the conditions that obtain in India itself? Therefore, considerable changes have taken place—economic, social and communication developments, for example—and all these have brought about big changes in the state of affairs. What is more, the disturbance of the existing conditions is calculated to impoverish the people of Kashmir. When I refer to the conditions that prevailed there, under a later heading, it will be clear to the Security Council, if it is disposed to receive the facts and the arguments, that that is the position.

The other change factor I have already referred to, namely, the consolidation of the occupied territory. Time after time it has been said in this report that there should be only local authorities—meaning *de facto* local authorities. There should be no consolidation of territory. Western Kashmir is practically a Province of Pakistan, administered by its Central Government. It has no local government and, therefore, has become integrated in that way.

The same applies to other areas, directed by the Pakistan Army or the Pakistan Government. Therefore, this consolidation, the factual division of Kashmir that has been made by Pakistan occupation on the other side of the ceasefire line, is a change-condition which makes the operation of Part II very difficult.

We want to refer to other changed conditions of vital importance to our country. The Commission noted that there were forty-five battalions of Azad forces on the Azad-Kashmir side. That does not apply to the northern and extreme northwestern areas, but only to Western Kashmir, where there is a population of 500,000, and it is there that there are these forty-five battalions today, according to our estimate. And these forces are officered by Pakistan officers and Pakistani-trained officers who go

[1] Security Council Official Records, Fourth Year, Special Supplement No. 7, Annex 12, para. 9.

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to Pakistan military schools, where there are a large number of commandos organized for guerrilla warfare. These commandos were organized and thrown back into the population. Their number may be only a few hundred—the last time I heard, there were only 800 of them, but that is not an absolute figure. However, they are being trained for guerrilla warfare. This is something affecting the whole conception of the opening of the territory for a plebiscite. It would be imprudent for any country not to take note of these conditions. The Commission says in paragraph 203:

The resolution of 13 August 1948 recorded one major change in the situation as contemplated by the Security Council during its deliberations in the early part of that year, namely, the presence of Pakistan troops in the State of Jammu and Kashmir. It did not, however, record a second element which has developed subsequently into a serious problem.....

This, again, after the Security Council was seized of the situation and after the resolutions asking them not to make changes:

in the implementation of that resolution: The Azad (Free) Kashmir movement, whose fighting forces today (Krishna Menon: that was in 1949) number some thirty-two well-equipped battalions. This movement, Muslim in character, has become the centre of strong and violent resistance to the accession of the State to India. It controls a considerable part of the western area of the State, claims to be fully organized as a government and its political activities appear to be directed toward the accession of the State to Pakistan. The Government of India, of course grants no recognition to the Azad organization and holds, officially at any rate, its existence to be a problem of internal public order. On the other hand the Government of Pakistan has rendered important assistance to the Azad movement; it has offered the Azad forces with officers of the Pakistan Army. Units of the Pakistan Army itself are present in Azad Kashmir and have operated in the closest cooperation with the local forces. However, Pakistan has not given formal recognition to the "Azad Kashmir Government". In a letter dated 6 September 1948 Pakistan informed the Commission that it could not make commitments on behalf of the Azad organization. The Commission has never negotiated with its representatives, having no international standing, the organisation can have no international responsibility.

The Commission states in paragraph 204:

At the time that the Commission adopted the resolution of 13 August 1948 it had reason to believe that the Azad forces did not constitute a properly organised and equipped military force and that consequently their disposal, once the Pakistan Army had withdrawn from the State, would not constitute a major difficulty...

The Security Council must draw its own inferences as to why the Commission came to the conclusion at that time that it was not a serious factor because the Pakistanis did not inform it.

Paragraph 204 continues:

In accepting the 13 August resolution, India apparently agreed that these forces could be dealt with after the truce became effective....

Does that sound unreasonable on our part?

Four months later, during the conversations which immediately preceded the Commission's resolution of 5 January 1949, the Government of India stressed the importance it attached to the disbanding and disarming of those forces as a condition vital to the holding of a plebiscite. The Commission agreed that a large-scale reduction and disarming of the Azad forces should take place. Provision for this was made in the resolution of 5 January as follows:..

Then, the Government of India said, in a communication, that it was prepared to regard this as a matter of chronology. It did not ask that it should be done first, but that it should be done before the plebiscite was taken.

I am going to read another paragraph but I should like to omit all the others in view of the time. The Commission states in paragraph 225:

There is, indeed no doubt that the Azad forces now have a strength which changes the military situation and to that extent makes the withdrawal of forces, particularly those of India, a far more difficult matter to arrange within a structure which considers only the regular forces of two armies. Although it might be a matter of discussion whether the numerical strength of the Azad Kashmir forces has actually increased since August 1948, there is no question that those forces, who have since then been working in close co-operation with the Pakistan regular Army and who have been trained and officered by that Army, have increased their fighting strength. It is reasonable to

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suppose that, if the Commission had been able to foresee that the cease-fire period would be prolonged throughout the greater part of 1949 and that Pakistan would use that period to consolidate its position in the *Azad* territory, the Commission would have dealt with this question in part II of the resolution of 13 August.

Could there be anything more conclusive in favour of what I have been saying? Therefore, those are the changed conditions in regard to the army of that area.

I have already referred to the war of propaganda; therefore I do not propose to repeat it. Now comes the international position of the State of Pakistan. Here I want to preface my observation by saying that whatever I say does not constitute in any way a reflection upon the motives of the six other States represented around this table that are in military alliance with one party in this situation.

My Government has stated its position in regard to these matters. Wherever there has been opportunity of direct communication with Governments or of personal contacts, we have explained that we do not doubt their motives. We do not for a moment say that their purpose is to arm Pakistan against India. But the question is, what will happen to this considerable amount of equipment that now goes into this territory, whereby the entire military balance has been altered?

If the representative of the United Kingdom, whose country had the responsibility at the time of the partition, would go into the history of that period, he would find that one of the main problems discussed at the time of partition was the balance of military forces and equipment on either side in order to maintain stability. Now that equilibrium has been upset; and, therefore, this neighbouring country of ours, in dispute with us, always threatening war and crusades and keeping up a campaign of hatred, has now at its disposal very considerable quantities of equipment for use on the ground and in the air. When we come to the question of the military preparations, I shall read out such information as we have. Therefore, the equilibrium that obtained at the time for the conclusion of the signing of this plan, which is called the Commission's resolution, no longer exists.

Whenever there is talk about the withdrawal of troops, which the Foreign Minister of Pakistan mentioned in his observations, all these factors have to be taken into consideration.

When India was partitioned, some seven or eight million people from either side went to the other country. It was an exodus which inflicted a great deal of hardship on the populations concerned. Fortunately for us, we have resettled practically all of them. With an idea of the problem of the refugees, the Council will be able to see that there is a steady stream coming from the other side, with which we have to deal, but any change in this situation, any stirring up of trouble here, any attempt to unsettle conditions today, would start a scare and an influx of refugees. The first thing that happens when there is an influx of refugees is the slaughter of populations of the community in the country concerned. It may happen in India, and I fear it will happen in Pakistan.

To sharpen the statement I have to make this morning, I might take the problem of refugees itself. The Pakistan Foreign Minister, in speaking to the Security Council, referred to the 500,000 refugees that have gone into Pakistan. I do not know whether those refugees referred to were people from Kashmir alone or whether this is a reference to the 1947 period, when they were trekking both ways. I have no doubt that 500,000 people went through Kashmir into Pakistan. More or less may have gone; it is immaterial.

However, what is of relevance to us is the position now and the treatment of the minorities. Our present figures—and we have a very considerable organization for dealing with this—show that the

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migration of Hindus from East Pakistan to India was 4 million. The migration of Hindus from West Pakistan to India was 4·7 million. The migration of Muslims from India to East Pakistan was 1·5 million. The migration of Muslims from India to West Pakistan was 6·1 million.

However, the important part today is the return of these people to India. The return, not of Hindus, but the return to India of Muslims who have migrated to East Pakistan is at the present moment 1 million. Therefore, what I said yesterday about our being a secular State stands vindicated. One million of the Muslim faith have come over from East Pakistan to us. About 100,000 have come over from the West to us.

In Kashmir itself, the Jammu and Kashmir Government have a very well organized refugee organization. Whilst the Foreign Minister says that 500,000 people went through Kashmir at that time, the present figures show that 450,000 Muslim refugees from Pakistan-occupied Kashmir have returned to Kashmir and they have been rehabilitated. We have figures of them because this rehabilitation costs money, and the figures show that 450,000 of them have been rehabilitated. Similarly, 122,429 non-Muslim refugees have come into Kashmir from Pakistan-occupied Kashmir. That is to say, taking the two between them, very nearly 600,000 people have come in as against 500,000 who went out. What is more, they are all rehabilitated.

Today our problem is the problem of people of either faith coming into India because of better economic conditions, because of the secular conditions, and so on. In case the Foreign Minister challenges me on that, I shall read a very short extract from a statement by his own Prime Minister of today. Mr. Suhrawardy questioned a member's statement during a discussion in the Pakistan National Assembly in October 1956 with regard to the treatment of peoples in their own country and why people of a non-Muslim faith should be loyal. This is what he said:

> You tell me today what signs have they (Krishna Menon: that is, the non-Muslims) shown of loyalty to Pakistan. My answer is clear. What have you done for them to get their loyalty? In what way have you shown them that you treat them in the same manner in which you have treated the Muslims? How many posts, offices, jobs, positions of honour and positions of responsibility have you given them?

That is the statement of the present Prime Minister of Pakistan. In East Pakistan there have been Government regulations by the way of official circulars asking firms not to employ people who are not of the Muslim faith and for the exclusion of non-Muslims from the cloth trade, which is held 80 per cent by them, and official instructions to all foreign oil companies for the exclusion of non-Muslims. There is an increase in the number of crimes against this particular section of the community, and the whole system of education is being placed on a religious and non-secular basis. What is worse, there is the wholesale cancellation of licences for firearms for the non-Muslim population, while there is a free distribution of them to the other side.

Those are the changed conditions that exist. In view of those changed conditions, how can the Security Council consider that the position that existed in 1949 exists today? If there were a possiblity of the total withdrawal of all these forces and the restoration of law and order and peaceful conditions, that would be different. This is what has happened.

The repercussion of all these matters in India is very considerable. The instability that will be created in our part of the world is such that any attempt to inflict any hardship on the minorities in Pakistan is bound to have equal repercussions in spite of a very stern policy of our Government in regard to racial or religious offences. In spite of that, it will create trouble. When violence breaks out, it will break out in a very large way.

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In dealing with changed conditions in the State, I must also refer to the economic and social position in the Indian-administered area.

In the first five-year plan, the State laid out 10 million; in the second five-year plan, 34 million. It has abolished what used to obtain in the old, feudal days, the compulsory levy of grain on the peasants. Debt conciliation boards have scaled down rural debts by 80 per cent. An area of over 50,000 acres has been brought into cultivation. About 3½ million pounds of fertilizers are distributed each year. One hundred thousand acres of land have been reclaimed during the last two years. Electric power has begun to go into the villages. Local installations of power plants and the purchase of bulk electricity from neighbouring India contribute a very considerable part of the light and power in the area. Four hundred and twenty-five miles of new roads have been built, and a large number of the old roads have been improved. New bridges have been built. The customs duties between India and Kashmir have been abolished. Factories have been opened for the manufacture of materials, the tanning of leather, and so forth. An industrial revolution is taking place in the area.

The most important change, however, in so far as it affects the other factors which have been mentioned, relates to the visits of foreigners to Kashmir. During the days of the trouble, when actual hostilities were going on, we restricted, for security reasons, the entry of foreigners into Kashmir. In 1944, which was before the days of the trouble and a peak year for tourists, 70,000 people went to Kashmir in the tourist season; last year, 62,000 people went there, out of whom 9,000 were nationals — that is, European and American tourists.

I turn now to the field of education. Over 800 new primary schools have been established, 120 middle schools, and seven colleges. Thanks to the operation of UNICEF, there has been an extensive compaign to improve health conditions, particularly as regards tuberculosis, which is one of the troubles in Kashmir.

In this connexion, I should like to read a few brief comments made by foreign observers. This is what a special correspondent of the Manchester Guardian—a United Kingdom newspaper—had to say:

> In Srinagar, rations have gone up from 18 to 24 ounces (Krishna Menon: of course, this may sound very small to representatives of Western countries) and the price has gone down by 10 per cent. The import duty on salt has gone, water rates have been lowered, Government servants' wages raised; and, to silence anti-bureaucratic feelings, peoples' tribunals to examine corruption and nepotism are being set up; ...co-education is to go and education is to be free for all.

A special representative of the *Sunday Times*, one of the organs of British Conservative opinion, said the following—which I quote because the Foreign Minister of Pakistan made references to suppression in the Indian-administered area of the State:

> The Prime Minister (of Kashmir) moved unescorted among crowds who garlanded him, and peasants showered lumps of sugar, signifying a sweet welcome, on his car; while everywhere there were shouts of 'long live' and women sang 'our breadwinner has come'.

This is what the special correspondent of *The Times* of London had to say:

> More than Rs. 20 million of debts have already been reduced to Rs. 3,500,000... Irrigation is being extended, and improved seed and artificial fertilizer supplied at cost price...Electric power is being increased, and industries...improved and expanded.

Similar accounts were contained in *The Economist* of London, *The New York Times*, Swedish newspapers, Egyptian newspapers, and so forth. Statements to the same effect have been made by ordinary visitors to Kashmir.

I have now described the changed conditions on our side of the State—that is, the Indian-administered side. These changed conditions have a bearing on the Council's

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consideration of the present problem. The Council must view the resolution adopted in 1949 in the light of all the changed conditions and circumstances to which I have referred.

I turn now to conditions in the Pakistan-occupied part of Kashmir. In this connexion, I shall quote from our document No. 3, which, like the other documents to which I have referred and shall refer, I ask to be received as an official document of the United Nations.

First, I shall read excerpts from a memorandum to the members of the Pakistan Constituent Assembly from the All-Jammu and Kashmir Muslim Conference—that is, the large national organization of Azad Kashmir to which the Commission referred as wishing to accede to Pakistan:

For the last few years the people of Azad Kashmir in general, and those of Poonch (the sword-arm of Pakistan and Azad Kashmir) in particular, have been subjected to great torture and terrorization. Account of this terrorism is very heartrending. The Azad Kashmir Government, acting on the advice of the Ministry of Kashmir Affairs, is primarily and mainly responsible for the conditions that prevail in Poonch today. (Krishna Menon: The memorandum then goes on to describe these conditions as follows):

Martial law imposed in Poonch last time was without any justification... At least a dozen houses were blasted with dynamite, a number of poor families rendered homeless. Ruthless...and random firing by mortar guns took place, resulting in many deaths.....

Arrests of men, women and in some cases of children were effected. About 400 persons are still under detention in the concentration camp at Pullandri.

These statements are interesting in the light of the reference which has been made to persons detained by the Kashmir Government in the Indian-administered area of Kashmir. I continue to read from our document No. 3:

...The people have been arrested without any warrants of arrest, on mere suspicion or personal vendetta...They are rotting in the concentration camps at Bagh, Bari, Pullandri and Sarsawah. They are forced to live under sub-human conditions...in Pullandri jail 340 persons are detained in two rooms which have been built to accommodate only thirty-six persons. Eighteen hundred gallons of water are required daily in this prison, but only 800 gallons are supplied.

...There is a concentration camp at Muzaffarabad also. The face of Ghazi Feroze Ali, Secretary of the Pullandri Muslim Conference, was blackened. He was dragged through the bazaar, garlanded with shoes (Krishna Menon: that is a form of insult in our part of the world) and the police spat upon him and hissed and hooted him for hours... The same treatment was meted out to Abdul Aziz Maloti.

Women were arrested and subjected to unbecoming and insulting treatment...

And there follows a description of cases of molestation which I do not wish to read out.

The memorandum then refers to the collection of arms, and states that persons practising legal professions in that part of the world have been terrorized. I continue to quote from the document:

Arrests and detentions without trial are a common feature of public life now....

For the last six years people of Azad Kashmir have not been allowed to elect a government of their own. The refugees of Jammu and Kashmir, half a million of whom are on this side of the cease-fire line, are living in sub-human conditions. Their rehabilitation has been entrusted to unpopular, callous and unsympathetic so-called leaders who serve the personal purposes of the officers of the Kashmir Affairs Ministry....

To say that Azad Kashmir has been developed economically is to deceive the world and yourselves...

The submission is not meant for propaganda purposes. It was sent to the Pakistan Constituent Assembly by a political party seeking some redress. The following quotation from the memorandum is very important to the Council's consideration of this case:

The Kashmir Affairs Ministry (Pakistan) are the acutal rulers of Azad Kashmir... People of Azad Kashmir are stunned to see what Pakistan means to them and those in Indian-held Kashmir have become hesitant in their blind love for the Crescent...

The memorandum then demands the recall of all Punjab constabulary from Azad Kashmir immediately and the recall of most of the non-Kashmiri officers, the appointment of courts of inquiry, and the establishment of a legislative assembly.

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I repeat that this memorandum is not meant for purposes of agitation or propaganda. It was sent to members of the Pakistan Constituent Assembly by the All-Jammu and Kashmir Muslim Conference.

I should now like to read out some excerpts from an appeal made to the members of the Pakistan Constituent Assembly by important representatives of the people of Azad Kashmir. This appeal is also worthy of the Security Council's attention.

> For the last seven years the people of Azad Kashmir and the Jammu and Kashmir refugees have not been given a chance to elect their own government. Governments have been imposed upon them... The Ministry for Kashmir Affairs wields totalitarian control over the administration of Azad Kashmir.

The people who signed this appeal are all responsible persons in terms of Pakistan political life, according to their designations. They made this submission on the Azad Kashmir side. I have said nothing about the local conditions in the northern area, because it is very largely inaccessible, but the people live under very primitive conditions and the developments that have taken place in these areas are of a military character, to which I shall refer later.

In his statement, the Foreign Minister of Pakistan referred to conditions of repression and imprisonment in the heart of the Kashmir State which is not occupied by foreign forces. He read out a large number of names, and said that these people were in prison at the present time. I should like to say, because this will go out to India, that some of the persons he mentioned are not in prison now; they have been out of prison for a long time. He said that Prem Nath Bazaz, a Hindu, was in prison. He is not in prison. He was imprisoned for a year, and was released a long time ago. The people were detained on the orders of the Kashmir Government. It was stated that Mr. Ghulam Ahmad Ashai is now in prison, but he was released in 1954. Another person mentioned, Mr. Pir Maqbool Shah Gilani was released about a year ago. Mr. Abdul Ghani Gosi was released on parole in the middle of last year. And finally some months ago, Mr. Ghulam Mohammad Dar was released towards the end of last year, and Mr. Sardaruddin Mujahid was released on 10 September last year.

I am putting all these facts before the Security Council because an attempt has been made to show that there is a reign of terror in our part of this country. Last summer 62,000 people entered Kashmir as visitors, and 9,000 of them were non-Indians, they were foreigners. A great many of them were newspaper correspondents, cinema-men—because it is a great place for taking photographs—tourists and writers. They travelled all over the country, and that fact is sufficient indication that there is not an iron curtain.

Reference has been made to Sheikh Abdullah. I have already read from his statement to the Constituent Assembly to show what his political position is. Sheikh Abdullah was placed under detention by the Government of Kashmir. There is a detention law in Kashmir, just as there is a detention law in India. This is a piece of legislation which, in spite of our desires to maintain an abstract liberty, we found to be necessary in view of subversive movements in the country. Today, under this law, there are forty-nine people under detention in the whole of Kashmir, a good many of them for acts which have nothing to do with political crimes.

What is the procedure under this law? First of all, their offences must be stated to the detenus. A man cannot just be detained, he must be told why. They have access to a tribunal of high level, judicial persons who have to investigate the cases. Objection might be taken to this legislation, and there are some people in India who seriously object to it. The cases are examined by the judicial tribunal, which can order the release of a detenu, and the Government cannot refuse that release. They are not brought to public trial because there are

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reasons which may affect relations between States, not only with the State of Pakistan, but with other States. You have already heard, when I read from a document this morning, that my colleague from the United Kingdom quite rightly felt very concerned. I was more concerned, but I did not get any remedy for my concern, though he got his. That is how the world is, Mr. President. If some of these men were brought to trial, the Government could not withhold any evidence under our system, whomever that evidence might affect. It would create an enormous number of difficulties, but I do not want to ask the Council to go into all the details. I simply wish to say that, even taking the quantum of it, there are forty-nine persons under detention, some for short periods, some for longer.

It is quite true that the former Prime Minister of Kashmir is under detention, but may I say, without any offence whatever, that the present Prime Minister of Pakistan was arrested in 1948. It is one of those things that happen in times of social changes. My Prime Minister was under detention for a long time, and he has said that he learned a great deal during that period. The present Prime Minister of Pakistan was a prisoner of the former Pakistan Government, but I must say that he has not retaliated in the same way.

With regard to Sheikh Abdullah, in a document which I am now going to put in there are at least five or six extracts from testimonials to Sheikh Abdullah given in previous times by Pakistan publicists and ministers, and there is no name that was too bad for Abdullah at that time. The question is, at which time did he turn Quisling.

The letter of the former Prime Minister, Sheikh Abdullah, has been put in as a document by Mr. Khan Noon, and I am sure that he will agree with me that the only way to understand correspondence is to put in both the letter and the reply. Therefore, I have assisted him by providing technical assistance in putting in the reply of Mr. Sadiq, the President of the Kashmir Constituent Assembly. The letter of Sheikh Abdullah, which was put in as a criticism of the Government and against accession and so on, was sent to the President of the Constituent Assembly in order to make certain protests. The President of the Constituent Assembly was elected. He sent a reply, so if the Security Council looks into one letter it must look into the other. Therefore, in document 7 we have put the two together.

I have a great many more notes here about which I wished to talk, but I think you have heard me long enough. I shall only deal with the essential point that remains. I have no time to contradict every paragraph that appears in the statement of the Foreign Minister of Pakistan. There is, however, a misquotation from a Commission document which gives a totally erroneous impression of its meaning. I think that in saying that I am being moderate enough.

The present series of meetings are being held because of the letter dated 2 January from the Minister for Foreign Affairs of Pakistan to the President of the Security Council. In presenting his case, the Foreign Minister of Pakistan has done two things. First, he delivered what are threats. He indicated that trouble would brew. We have had an opportunity of comparing some of these statements with the statements made in 1947. They have, shall I say, a very close family resemblance, that is to say, if this is a beginning, especially if you read it parallel to the other statements I read out a while ago, that this does not end with the Security Council and they propose to do something themselves, and so on. Then Mr. Khan Noon said:

> Here I would like to say that it is sometimes argued by India that everything is peaceful (Krishna Menon: we have only said they are peaceful now on the Indian-administered side; on the contrary, we have said it is not on the other side), so why bother about Kashmir? But I warn you, (Krishna Menon: he warns the Security Council) that is a calm before the storm[1].

(S/PV. 761, pp. 34-35)

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Now I ask you gentlemen whether this is the language of the Charter: "But I warn you, that is a calm before the storm. Everything is not peaceful." Mr. Khan Noon continued:

We have just seen a telegram which states that on 11 January our Minister for Information Mr. Amir Azam Khan made a statement in Karachi that the Indians have massed their troops on our border. The excuse that Mr. Nehru gives is that he fears an attack from Pakistan, whereas we have not sent one soldier to our border. The fact that he is afraid of a war breaking out because of the Kashmir problem should assure the Security Council and the world that it is peaceful on the surface, but if the Security Council closes the door on a peaceful settlement we cannot say what will happen. If the Indian troops are there because India fears war between India and Pakistan, that should be a sufficient answer to those people who say that all is quiet in the kingdom of Kashmir (Krishna Menon: It is not a kingdom any more) and India and Pakistan and the Security Council need not take any action.

Then he gives some advice to the Security Council:

Please do not be misled by the fact that we are peaceful, that we want a peaceful solution.

The Security Council has had sufficient evidence adduced before it by me to show the nature of these intentions. Then he goes on to say:

We are looking to the Security Council to do justice to these poor and poverty-stricken people (Krishna Menon: I have also read to you the conditions on either side) of Kashmir to whom it has promised a free and fair plebiscite under the auspices of the Security Council, which plebiscite has been denied to them for the last eight years.

That is a denial of fact because what has been promised is what is under Part III of the agreement.

I shall first deal with this statement. There is an allegation here which is of a serious character and I say with the highest respect to the Foreign Minister of Pakistan this should have been a subject of protest to my Government. That is the normal practice between two neighbouring Governments if either masses troops on its border. Now what is the position? In actual fact we have reduced the military strength in Kashmir recently. I referred this to my own Prime Minister and this is the truth There is no truth whatsoever in the statement made by the Pakistan Minister for Information on 11 January. Of course, the Minister for Information, as you know, in peacetime is the reincarnation of the Ministers of Propaganda in wartime.

The United Nations observer teams are located all along the cease-fire line in Jammu and Kashmir. If there had been any massing of troops in that area, as alleged by Pakistan, the matter would have been immediately dealt with by the chief military observer of the United Nations group. That is with regard to the cease-fire line.

If the complaint is that we are massing troops on the Indo-Pakistan border, along the Indo-Pakistan border in the Punjab—that is in the western area—there has been no increase in the strength of our troops. The Prime Minister at the moment is Minister of Defence as well as Prime Minister, so he ought to know. If at all, the strength of troops deployed on the border has decreased as the majority of border posts have been handed over by the Army to the Punjab armed police as the local police, not of the State Government. I do not know why and where the information came from; it may be that some observation from the air miscarried. They probably mistook Pakistan troops for Indian troops; they look alike. That is quite possible, but I think the interesting part of it is that on this day, when we were supposed to be making all these great troop movements in preparation for war, the great majority of our generals were taking part in a polo tournament in Calcutta. That is not the way to wage war. Therefore, there is no substance whatsoever to it. This is part of the propaganda of the Minister of Information. The Foreign Minister has only relayed what his minister of propaganda put out.

As against that, we have to take the position that not merely are their troops in Kashmir—and all of you sitting around this table representing independent States

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realize that the security of a country is a vital concern—but all the Pakistan military concentrations of any importance are on our border. Abbottabad is sixteen miles from the Kashmir border. It is one of the main military concentrations. Rawalpindi, which is the General Headquarters, is thirty-one miles from the Kashmir border. Murree, where another concentration of the 12th Infantry Division of the Pakistan Army is located, is fifteen miles from our border. Jhelum is four miles from our border. Kharian is thirteen miles from our border. Sialkot is six miles away, so that we are ringed around by Pakistan concentrations the whole time. In document 2, which has been distributed, there is a map which shows how this encirclement is carried out, so that when we talk about security we are just not producing an argument.

If you want any further details since the Foreign Minister has taken the liberty of making a public statement about the disposition of our troops which turns out to be inaccurate, I take the liberty of telling you how their troops are deployed in the Kashmir area. I did not ask the Pakistan Government where they got their information. I only pointed out that it was inaccurate. This happens to be accurate. Scouts in the northern area of Pakistan-occupied Kashmir —that is the Gilgit area—number 3,000. They are officered by Pakistan regular Army officers. Formerly, there was a distinction between the A and B categories of the Azad battalions, but now it has almost disappeared, meaning thereby the local militia has now become a regular army. All "Azad" Kashmir battalions and their training and equipment are on a par with Pakistan regular troops. Regular Pakistan Army officers with Pakistan forces and scouts in Pakistan-occupied Kashmir are more than sixty. The Commanding Officer and Adjutants in most of "Azad" Kashmir battalions are from the Pakistan regular Army. There is a sprinkling of regular Pakistan officers also in all "Azad" Kashmir battalions and in the Scouts Organisation.

As far as the deployment of troops is concerned—because it affects our security, as I gave the distances—there is one corps in the Rawalpindi area, one armoured division in the Rawalpindi area, the 12th Infantry Division under the operational control of the 15th Infantry Division, three infantry brigades in the Sialkot area, and this division is under its operational control. In other words it is these nerve centres that control the entire territory of Kashmir under Pakistan occupation. Kharian and Jhelum are being developed as big bases, only four miles from us and a new component for the armoured division to be used as a base for supplies of the new military equipment coming in under American aid.

Lashkars are being trained for military operations in the "Azad" Kashmir territory. Personnel are drawn from the "Azad" Kashmir battalions and are trained by Pakistan personnel.

This is another important part of it. Most of the airstrips and landing-grounds are being widened and improved to take the latest type of jet aircraft. We have the length of these airstrips and the increases that have been made recently and we are quite satisfied that the increase in the length of these runways is for the purpose of taking the jet planes which they could not have taken before.

The 12th and 15th Infantry Divisions have been under the operational control of that part of Kashmir. Formerly this was the responsibility of the 12th Infantry Division. The ex-armed forces personnel are being organized by ex-Major-General Akbar Khan and others, to raise a volunteer corps to liberate Kashmir. This is the same Akbar Khan who was not supposed to be in Kashmir but appeared under the name of General Tariq and who was prosecuted by the Pakistan Government for conspiracy against the Pakistan Government, and now, I suppose, a new patriotic phase has emerged and he is going to liberate Kashmir. So the former insurrection leader has also been put into this thing. I would like the Security Council to take note of this position.

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In regard to air bases in Northern Kashmir, Gilgit and Chitral are the two important airfields; they are on the Soviet-Chinese-Indian border and, according to the reports that we have, are being expanded and developed. Of course that equipment cannot be manufactured in Pakistan. Heavy machinery and radar are reported to have arrived there. The "Azad" Kashmir forces have no air arm of their own. Before November 1948 there were only two cross runways in the Gilgit airfields; one was 915 yards and the other 650 yards. They were for the small observation planes of the British days to come down on. But now the runways have been increased to 2,000 and 3,500 yards. I do not think I will read out the remainder because it is highly confidential information.

I have said, and I would like the delegations of the countries which are in military alliance with Pakistan—and particularly the United States—to accept my assurance, that in any observations I make, there is no reflection that such assistance as they give is intended to be used against us. But unfortunately weapons of war have no magazine for intentions; their only magazines are for projectile power. You cannot decide beforehand which way they will fire.

I will not quote statements from the newspapers or from legislators or agitators, it is too serious a matter for that. But I will quote the present Prime Minister. The Prime Minister, speaking at Lahore on 2 December 1956, not long ago, defended Pakistan's policy of military alliances. He said that when the Government of Pakistan decided to remain neutral and weak there was no immediate danger to its own independence—it is quite obvious it was not its own security:

"I see no country that is prepared to attack, engulf or destroy us." That includes us, because Mr. Suhrawardy was formerly a member of our National Party. "I see no country that is prepared to attack, engulf or destroy us". I hope he still lives with that statement The immediate disadvantage to Pakistan, however, is that is will not be able to assert its rights. The Prime Minister continues: "We may have to keep our rights on Kashmir, on canal waters or to bow our heads to a superior and more powerful neighbour".

Then he went on to refer to India's attitude towards Pakistan. It is not a defensive affair, and these alliances therefore are intended to negotiate from strength, as it is called, whatever that means.

The Foreign Minister said in Rawalpindi on 21 October: "There is only one country in the world inimical to Pakistan and that is Bharat"—that means us, as they do not like us, but this word occurs in our Constitution and we have no objection to it, we are not ashamed—"on account of its intransigent policy in Kashmir." There is only one country inimical to Pakistan, but they have signed a trade agreement and we are always common sufferers under certain conditions.

Sir Firoz Khan Noon speaking at Lahore the previous day in justification of Pakistan's adherence to military alliances and specially the Baghdad and SEATO Pacts, defended it on the grounds that "a powerful neighbour country which was inimical to Pakistan had in fact forced it to seek friendship elsewhere. That country had grave differences with this country and the two pacts have enabled Pakistan to ensure its defence against aggression. The country's freedom could only be preserved with the help of those friends."

These are the two most restrained statements on this subject. I could quote a great many more, but it is not my purpose to aggravate this matter because so many other countries are involved; in spite of all the reservations I have made, it would be bound to leave a feeling that we were extending this debate to other matters such as the general world policies of certain countries.

At this moment it is necessary for me in a few minutes to say what our position is.

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There are certain proposals made by the Pakistan Government. I had intended to deal with them this morning but it is not necessary for me to deal with them now because of the resolution which is before us; no doubt they will be discussed at that time. But if I deal with these proposals briefly it should not be considered that we have exhausted our observations in this subject. The proposals are as follows:

> In view of this grave situation the Government of Pakistan request the Security Council to take action on the following lines:
>
> (1) Call upon India to refrain from accepting the change envisaged by the new constitution adopted by the so-called Constituent Assembly of Srinagar.

I explained yesterday that this Constituent Assembly does not proceed from the resolutions of the Jammu Conference or any thing like that; it has its origin in the proclamation of the Head of the State, the text of which I read out to you, and its purpose is the creation of a constitution for Kashmir itself. The relation of Kashmir to India, so far as we are concerned, is decided by the accession. Therefore, it is not the Constituent Assembly that should be attacked and I do not see what restraint can be imposed upon the exercise of the sovereign rights of an independent country. How can the Security Council turn round to us and say that a constituent party to a federation cannot have its own constitution, to order its own life in its own way? If anything is to be attacked it must be the accession, as I pointed out yesterday and I submitted that the Security Council is in no position under the Charter to go into the legality of the accession; and so far as we are concerned it is complete.

The second paragraph of the proposals reads:

> (2) Under Article 37(2) of the United Nations Charter, spell out the obligations of the parties, under the terms of the international agreement for a plebiscite as embodied in the United Nations Resolutions.

I think it would be repetition several times over for me to point out the fallacy in the last three lines. There is no international agreement for a plebiscite; there is international agreement on a plan for which there are certain pre-conditions. In these matters we must not jump from one thing to another; it does not mean the same thing. We are always willing to have the obligation of this body under the Charter spelled out.

Then there are remedies proposed. I do not think I shall deal with these in detail, but so far as the remedies in paragraph 77 are concerned, before those who are applying their minds to it make their final decision I would request them, particularly those who regard themselves as in close relations with us, to refer to the Commission's report on this subject made nine years ago.

It is a bad policy to subscribe oneself to courses of action for reasons that are not related to this subject. So far as paragraph 77 is concerned, we reserve our comments, except to refer to the paragraph in the Commission's report in regard to the introduction of other troops and forces in the area, and the answers that have been given. This was a Pakistan request, made by Sir Mohammed Zafrullah Khan nine years ago; it was reviewed and the Commission turned it down. I want to submit also, for those who are very constitutionally minded, that this is a contravention of the Charter.

I would like to say that the substance of my submission before the Council is that the Government of India asked the Council to carry out the provisions of the Charter, which is what it will do. We, on the other hand—and I make a solemn declaration on the part of the Government of India—shall not use force. We shall not do a single thing that will upset stability. We have no desire —and we have never done it in the past—to change the *status quo* in regard to any of our difficulties on our frontiers by the use of force. The most outstanding instance is the Portuguese colony of Goa on our western side. It is Indian territory under imperial occupation. We had a moral duty as a national movement to bring about its liberation. There are our friends from the

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Fourth Republic of France who had possessions of this kind in India. We patiently negotiated with them, as they did with us for over seven years; while if it were a question of force, it could have been decided one way or another before. Therefore we do not change the state of affairs by the use of force.

I have been asked by the Government of India to state, therefore, that not a gun, not a soldier, will be used, not a shot will be fired by us. There will be no aggressive action taken so far as we are concerned. It is a little late in the day for Mr. Khan Noon to come and tell us about a no-war declaration—which sounds very well except when you read the conditions. A request was made by us to his predecessor when he was Prime Minister and Foreign Minister eight or nine years ago, and repeated time after time to his successors, including the Ambassador to Washington at the present time for a no-war declaration. Therefore, while the present statement may have the same label, it has not got the same substance.

I am to assure you that so far as we are concerned, even in order to redress our wrongs, even in order to restore our territories, to assert the sovereignty which this Council has at no time challenged and, what is more, repeated time after time, and in order to pursue the purposes embodied in our Constitution, and to establish the integrity of our land, we are not prepared to use force. But at the same time, in view of the threats that have been made, if our territory is violated, then we shall use the provisions of the Charter to defend what is ours under the law and in terms of our possession. And this is merely a very humble statement of the position of the Government of India.

It has no relation whatsoever with our armed dispositions. I have with the utmost frankness told the Council what our armed disposition is. Ours is perhaps the only country in the world which has reduced its military budgets. We spent somewhere about 18 per cent of our total revenues on military expenditures, as against 37 per cent of Pakistan's. Our army has gone down in numbers and in its offensive power, while the other army has gone up. But believing as we do that it is not possible to equate this position, especially in the context of these military alliances, by entering into an arms race, and that probably the risks of peace are no greater than the risks of war, we are taking this line.

The Security Council composed as it is, in the circumstances in which we find ourselves of not having considered this question for five years, and, I hope in view of the submissions I have made, has a serious responsibility to pronounce on this question. I say that the fundamental question is whether the Security Council is prepared to say to itself, whether each Member State which the Members represent is prepared to say to itself, that from an aggression, whatever may be the rights of the other side, other consequences beneficial to the aggressor can follow.

That is the issue we are considering in another context and in other places. Therefore, to disregard all that has been said by the Commission—and not in one paragraph, but in many—and, what is more, as I said this morning, to draft resolutions on this subject before another side has submitted its case, is not to proclaim the sense of justice and equity of this august Organisation.

Therefore, my Government, in full faith in the allegiance of the Security Council to the principles of the Charter, believing in our rights in law, in morality and in ethics, and what is more, knowing what are the interests of the peoples of India and Pakistan, knowing the consequences of unsettlement, remembering the grim tragedy of 1947, knowing the passions that are aroused when there is a quarrel between neighbours, asks you to be careful. We ask for your prudence; we ask for your sound judgement in not jumping into a situation without taking all these facts into consideration.

The Government of India here is not in the dock. We came here as complainants.

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A distinguished colleague of ours appears to have mentioned this today: why should we be so much on the defence? If it sounds to people that we are on the defence, it may be because we indulged in some understatements both in the past and in the present. We are here not in order to ask for condemnation of anybody, but we are here in order to state what are our rights under the Charter. Have we the right for the security of our territory? Have we the right to be free from threat? Have we the right to feel assured that the machinery of the Security Council, and its resolutions, are not going to be used as a smokescreen for the preparation of aggression against us? Have we the right so far as the Council is concerned —and I saw that it cannot impose it—to live side by side with our neighbour, free from the threats of a holy war? Have we the right to enable our peoples, the great majority of whom are under subsistence levels, to devote our energies, our attention, our resources, our friendships, for the economic and political development of our peoples?

These are the questions that face us. And while I have no desire to conclude in this way, I cannot but help referring—and I would not have done this if it had come from any other representative of the Government of Pakistan except our old friend Mr. Khan Noon—to what he told this Council when he said that between the friendship of the Indian and Pakistan people stands Mr. Nehru. I ask the Council to consider that statement, coming from a leading Indian personality only ten years ago, who is a family friend of most of what may be called the ruling families, if you like, the persons in Government positions in India, who knows our intentions and who represented the Government of India as a whole in many circumstances, and telling our people that between the two of us lies the personality of our Prime Minister.

If that is not incitement to revolt against the Government, I ask what is? It is the only part of that statement that has caused our delegation intense pain. That comes on top of the kind of thing that is written in Pakistan. What I have here is from the *Dawn*. I am ashamed to read it, but it is my duty to do so. The *Dawn* is a paper founded by the founder of Pakistan. It is still regarded as a kind of most important organ, I believe. It says:

> The Security Council will have barely ten days vocal and compelling step whereby that rapacious brigand of Asia, that hypocrite masqueradcious brigand of Asia, that hypocrite masquerading as a apostle of peace with his hands red with the blood of Kashmiris as well as Bharati Muslims, that double-facing, double-talking and double-dealing Brahmin Janus who shamelessly woos both Moscow and Washington in order to have the best of both the worlds—can be prevented from accomplishing his designs.
>
> Will the United Nations this time act, or will it again temporize and shirk its responsibility?

This is about the Prime Minister of India who, when he went to Pakistan—and I make no odious comparisons—was received with greater affection than any Pakistan leader. It goes on to say:

> Let us hope for the best, but be also prepared for the worst. The one thing certain is that Bharat shall not be allowed to grab Kashmir finally (Krishna Menon: so there is no question of the plebiscite deciding). If the United Nations fails, and those with whom we have thrown in our lot prove faithless, (Krishna Menon: those are the six military allies) let the world take note that the prospect of a peaceful settlement will vanish for ever. The inevitable alternative need not be spelled out—but come it will.

I do not say it is a statement of the Pakistan Government. But considering that while the Security Council is sitting here, demonstrations against our missions are taking place in Pakistan territory, and what is more, that those demonstrations are addressed and spoken to in cordial terms by the Prime Minister of Pakistan, I hope the Security Council will pardon me if I make references to this. Even where there are hostilities, even when there are great strained relations, there are proprieties to be observed. We have also a very sentimental population, not different from theirs. We have a larger country; we have pockets of Muslims all over. I come from a part

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of India where a considerable Muslim population forms a pocket. We do not want the conditions to be created where they will be the victims of fanaticism and of passion. Therefore, no errors have been made in this.

The Security Council regards this as a dispute. It is not a dispute for territory. There is only one problem before you—whether you will face it or not, and if you do not face it, I say with great respect it is a matter between yourselves and the instructed judgment of your Governments—and that problem is the problem of aggression. My Government, when once that is resolved and when all these elements of aggression are withdrawn, will not be wanting, in its allegiance to the Charter, in finding an arrangement by adjustment with our neighbours which will be to our common good. Any other procedures you may adopt will not only put off that day, but will aggravate the relations which we are trying very hard to be otherwise. But it will also prove to those vast millions of the Indian people—and irrespective of all circumstances, they have many friends in this world, in all continents—to the masses of them, that the politics of power alignments, religious fanaticism, personal antagonisms, take precedence over the fundamental principle of the Charter.

The Charter enjoins upon you, Mr. President, and your colleagues an action consistent with the crime of invasion.

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IV

24 January 1957

Khan Noon (Pakistan): The statement of the representative of India is highly tendentious, full of inaccuracies, and altogether misleading. I will, with the permission of the Council, try to answer all these points that he has raised at a subsequent stage of the debate on this dispute. We are at present concerned with the urgent consideration of an interim measure on which we have requested action by a particular date. As soon as the Council is pleased to take a decision on this measure and debate on the dispute is resumed, I shall seek the permission of the President to make my submission.

Sir Pierson Dixon (United Kingdom): It is a matter of very deep regret to my Government that the Security Council should have to be dealing once more with the Kashmir dispute. There is the closest relationship between my country and all the peoples of the sub-continent—if I may use a term which, I agree with the representative of India, is not a very elegant one. Ties of history, of sentiment and, as we firmly believe, of interest also, link our small island kingdom with every part of that vast section of Asia.

We are proud of our part in the constitutional development of the Commonwealth. We like to think that, in a period which is past, we contributed not a little of our own to the inheritance of the age-long civilizations of that part of the world. There is much that we have learnt in return.

In the past, as the present, our constitutional relations with the various parts of this area have differed, but our good will to every part of it remains the same.

I should like to take this opportunity of expressing my gratification at the generous remarks that have been made in the course of this debate about the attitude of my Government and of the role played by many of my countrymen during the difficult and anxious period of travail that gave birth to the India and Pakistan of today. Only the voice of ignorance would, I think, deny that the Englishmen, the Scots, the Welsh and the Irish—for, on a small scale, we too have our diversity—all those who served the Crown in the old imperial India and in the transitional period came to feel a deep devotion to the people among whom they passed their lives and gave of their best.

In the altered circumstances of today those feelings persist. From the bottom of our hearts we wish well to the peoples of India and Pakistan. They are partners with us, and with many others, in a community which rises above differences of race or creed and which is, I think, unique not only in the present world, but in world history. Everything that unites these two countries gives us deep satisfaction; anything that divides them couses us deep concern.

Unhappily, today the Security Council is dealing with a problem that does deeply divide these two countries. That the difference is a deep one and that it has caused the strongest emotional reactions on both sides, it would be useless to deny. It is, therefore, the desire of my Government, as it is certainly the duty of the Security Council, to proceed in this matter with the greatest prudence and foresight. Under the United Nations Charter the Security Council is charged with primary responsibility for

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the maintenance of peace and security on behalf of the Members of the United Nations as a whole. I am sure that the Council will do its best to act in the spirit of the great responsibilities which it bears.

I shall have more to say at a later stage of the proceedings about many of the matters of substance touched upon in the statements of the Foreign Minister of Pakistan and the representative of India. At this stage, however, I propose to limit myself to the subject matter covered by the draft resolution which my delegation has joined in sponsoring. This particular matter has, of course, been considered by the Council before.

The Constituent Assembly was established in Srinagar in 1951. As Mr. Krishna Menon pointed out yesterday, its primary task was to promote the processes of self-government in Kashmir territory. That is not a matter which in itself comes within the jurisdiction of the Security Council, and my Government, for one, of course, welcomes any step towards the development of democratic processes in Kashmir as elsewhere; but when its attention was called to the matter in 1951, the Security Council could not fail to take note of the reports that one of the functions of this Constituent Assembly would be a decision on the future shape and affiliation of Kashmir.

The Council was naturally concerned that nothing done in Kashmir should prejudice a settlement of the whole issue in accordance with the principle that had been the basis of its consideration of the matter since 1948, that is to say, that the final disposition of the State of Jammu and Kashmir should be made in accordance with the wish of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

What action did the Council then take? It did not seek to interfere with the processes of democratic development in Kashmir, but it affirmed a quite simple proposition that the convening of the Constituent Assembly and any action that it might take would not constitute a disposition of the State in accordance with the principle to which I have just referred.

The Council was assisted in its task at that time by the explicit assurances at various stages of the proceedings by the representatives of the Government of India. In particular, on 9 March of that year, Sir Benegal Rau had this to say:

> Will that assembly decide the question of accession? My government's view is that, while the Constituent Assembly may, if it so desires, express an opinion on this question, it can take no decision on it.[1]

Then, after the resolutions had been passed, Mr. Dayal on 29 May reiterated this assurance and said something else, which I should also like to quote:

> I reaffirm that so far as the Government of India is concerned, the Constituent Assembly for Kashmir is not intended to prejudice the issue before the Security Council or to come in its way.[2]

The position thus was quite clear, and I now turn very briefly to what has happened since. If I understood Mr. Menon correctly when he spoke yesterday, he said that the Constituent Assembly for Kashmir had passed a constitution, some of the clauses of which came into effect automatically on 17 November 1956, and others will come into effect on 26 January next. In particular, Mr. Menon referred to article 3 of the constitution as already being in effect, and that article, I believe, states that the "State of Jammu and Kashmir is and shall be an integral part of the Union of India."

In these circumstances it is surely quite natural that the Government of Pakistan should seek some reassurance as to the views of the Security Council.

If I understood Mr. Menon correctly yesterday, he said that the constitution for Kashmir which we are considering is that of "a sub-sovereign body". This is, I take it, another way of making the point made

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[1] Security Council, Official Records, 538th Meeting, para.23.

[2] *Ibid.*, 48th Meeting, para. 40.

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by Sir Benegal Rau in 1951 when he told the Security Council that as regards the question of accession the Constituent Assembly can take no decision on the matter.

This, then, appears to be the position today, as it was in 1951. The Security Council, in dealing with this limited question, has before it, therefore the same considerations as it had in 1951. In these circumstances there appears to be no reason at all to modify the simple proposition set out in certain parts of the Security Council resolution of 30 March 1951 to which I have previously referred.

In view of the expressed anxiety of the Pakistan representative on this score, it seems to me reasonable for the Security Council to consider a short draft resolution which reaffirms the clear stand it took in 1951. It is for that reason that the United Kingdom joined in sponsoring the draft resolution before the Council.

My colleague from India complained this morning that the draft resolution had been circulated before he had completed his speech. Perhaps I should say, as one of the sponsors, that I had taken the statement we listened to yesterday afternoon as a clear exposition of the Indian position on the particular aspect of the Kashmir problem with which the draft resolution deals, that is, the point relating to this constitutional issue. There is, of course, a special reason for expedition in connexion with this particular point, since the other party to the dispute, the Government of Pakistan, has expressed concern lest some step might be taken in the very near future, that is, on 26 January. For the practical purposes of our discussions here in New York, this date may in fact partially be considered as 25 January, since New York is eleven to twelve hours behind Delhi and Karachi in time. It is evident, therefore, that time is very short if some reassurance is to be given.

There are, of course, other matters of the greatest importance referred to in the speeches of the representatives of Pakistan and India. These matters are before the Security Council, and they are matters which require full and most careful consideration. It is for this reason that it seems wise to include the second operative paragraph in the draft resolution, and I would wish to return to these questions at that later stage.

Walker (Australia): It is not my intention today to enter at any length at all into the substance of the difficult and long-standing problem of Kashmir, but I thought I should say a few words immediately regarding the draft resolution which, together with several other representatives here, we are submitting to the Council. We think that it is necessary to present this draft resolution now and to comment briefly on it just because of the march of the calendar and the references which have been made to the date of 26 January, which, together with India, we share as a national festival.

I should like to say that, so far as I am concerned, I took the representative of India's remarks yesterday as being a full statement on the particular matter to which this draft resolution is addressed, and for that reason I was prepared to join in sponsoring the draft resolution this morning.

The Kashmir problem is one that has occupied the attention of the Security Council for a number of years, and I think it will be recognized that if a solution satisfactory to both India and Pakistan has not been put into effect, it is not through any lack of effort on the part of the Council or through any failure by the members of the Council to study the complexities of the problem in a spirit of good-will towards both parties. Indeed, the Council has, in its past resolutions, laid down certain basic steps that should be taken towards a solution, steps which were firmly founded upon the principles of the Charter.

The first step was to establish and police a cease-fire, which happily is still in force. In an attempt to move ahead towards a constructive solution, the Council has declared the rights of the people of Kashmir to

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determine their own political future and has placed faith in the recognized democratic method of a plebiscite, to be conducted in conditions that would ensure a free vote without any coercion. However, the Council's efforts, through its Commission and its successive representatives, to bring this about have not yet been successful, and we are again requested, this time by Pakistan, to take up the matter.

The Australian delegation enters upon this discussion with a deep sense of responsibility, for the people of Australia have followed this problem of Kashmir with great anxiety and concern. One of the most remarkable results of the United Kingdom's policy in terminating imperial rule in India was that it paved the way for a new relationship between Australia, on the one hand, and India and Pakistan, on the other. The growing sense of our partnership with India and Pakistan in the Commonwealth has been a prominent factor in the minds of Australians in recent years, and today the Australian people are widely conscious of their close ties with India and Pakistan, ties that have been strengthened by personal contact, especially with the many young men and women who have come to study in our universities and colleges.

This conflict over Kashmir has grieved us, and as is usual when one's close friends quarrel, we have not been eager to take sides. But we have endeavoured to understand sympathetically the issues at stake and to encourage an amicable settlement. The efforts of the Australian Prime Minister, Mr Menzies, in this direction are well known, as is the work of Sir Owen Dixon, the United Nations Representative in 1950, and of General Nimmo, the present United Nations Chief of Staff in Kashmir.

We Australians believe most sincerely that the continuing existence of this conflict can only bring with it evil effects for peace in the sub-continent, for the evolution of democratic government in the two countries and for the economic development of Kashmir and the welfare of its people. The sole interest of the Australian Government in this matter is to do what we can, in the circumstances prevailing, to assist the parties to find a just and mutually acceptable solution of this problem.

We have listened most carefully to the statement made before the Council last week by the foreign Minister of Pakistan, Mr. Khan Noon, and to the detailed reply we heard yesterday and today from the representative of India, Mr. Krishna Menon. Both statements are extremely important and require the most painstaking consideration in the Council, and I can assure Mr. Noon and Mr. Menon that their observations and arguments will receive close and serious examination by my delegation and by the Australian Government.

Those statements exposed very clearly the complexity of the problems that nad to be faced by the United Kingdom and by the political leaders of India and Pakistan in connexion with the transfer of sovereignty, the establishment of practicable systems of government, and the settlement of the delicate issues relating to the former Princely States. That there are limits to human wisdom and the capacity to solve such problems is unfortunately all too true, and is tragically illustrated by the situation in Kashmir. Nevertheless, one cannot but note that the achievements of both India and Pakistan in building their State are in part a reflection of the great measure of wisdom displayed by those who had to resolve the difficult constitutional and related problems that have been explained to us in these statements.

I am not at all convinced that it would be desirable for the Council to take up in detail many of the particular questions of past history that have been ventilated by the representatives of Pakistan and India. The charges and counter-charges of conspiracy and aggression have been considered at great length by the Council in the past. It seems to me most important at the present stage to concentrate our attention upon the fundamental principles already recognized by the Council.

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There is no doubt in my mind that whatever varying interpretations may have been placed by India or Pakistan at various times on the conditions to be fulfilled before a plebiscite should be undertaken, and whatever the course of action of these parties at various stages of the dispute, the Security Council has committed itself to the principle that the wishes of the Kashmiri people regarding their future should be established through a plebiscite under the auspices of the United Nations. As I see it, this is the view of the Security Council, as expressed in several resolutions, and it is my impression that the Council has in the past considered India and Pakistan as having accepted this principle.

Perhaps I should say in passing that Mr. Menon's statement, interesting and powerfully argued though it was, still leaves me in some doubt as to just where the Indian Government stands today in relation to this principle, and it may be necessary for us to go into this question at a later stage. But it has no bearing on the fact that the Council has been, and is at this moment, committed to the principle of a plebiscite.

The Security Council also considered it necessary almost five years ago to record its view that any action taken in a Constituent Assembly in Kashmir to determine the political future of the people of Kashmir would not constitute a disposition of the State in accordance with this principle.

What view is to be taken, therefore, by the Security Council as to the significance of the deliberations of the Kashmir Constituent Assembly? I confess that it is not altogether clear to me just what is expected to happen in Kashmir from a constitutional viewpoint on 26 January. I understand that the Constituent Assembly has adopted a Constitution for Kashmir, some of whose provisions were operative from 17 November 1956, and the remainder were to come into effect on 26 January. What is not completely clear is to what extent this represents any new step purporting to determine the future affiliations of the State of Kashmir and whether it is regarded by the Government of India as raising a new barrier in the way of a plebiscite in accordance with the Security Council's past resolutions.

I do not know whether the Government of India itself proposes to take any formal step to accept such changes as are purported to be made through this Constitution drawn up by the Constituent Assembly. It would seem to us that any such formal action would be in conflict with the past resolutions of the Council.

If, on the other hand, the Constituent Assembly is merely going to dissolve itself on 26 January and celebrate the completion of its activities, the question remains as to whether those activities are regarded by the Government of India as having any bearing on the disposition of Kashmir and the question of taking a future plebiscite. If so, they would seem to us to be equally inimical to the Council's past resolutions on this subject.

In these circumstances, it does seem desirable to us that the Council, before going any further with its examination of this difficult and important problem, should draw the attention of all concerned to the Council's earlier decisions. For this reason, the Australian delegation has joined in sponsoring the draft resolution which is before us, and it expresses the hope that the Council will adopt it without undue delay.

Nunez-Portuondo (Cuba) (interpretation from Spanish): The delegation of Cuba would like to pay a tribute to the great oratorical efforts which have been displayed by the Foreign Minister of Pakistan and the Ambassador of India. Their statements will be extremely useful to the members of the Council when they take up in detail the substance of this question.

However, at the moment we are faced with what we might call a preventive measure, namely, the provisional measure which is set out in our draft resolution. In passing I should like to say that the dele-

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gation of Cuba would have preferred this draft resolution to be presented after the representative of India had concluded his statement to the Council. In any event, my delegation does not believe that the delegation of India can have any reason to oppose this draft resolution. After all, its first paragraph contains the views already expressed by the Prime Minister of India, Mr. Nehru, for whom I have the highest admiration and respect, to the Prime Minister of Pakistan. In a telegram dated 8 November 1947 to the Prime Minister of Pakistan, the Prime Minister of India declared:

> It will thus be seen that our proposals which we have repeatedly stated are (1) that Government of Pakistan should publicly undertake to do their utmost to compel the raiders to withdraw from Kashmir; (2) that Government of India should repeat their declaration that they will withdraw their troops from Kashmir as soon as raiders have withdrawn and law and order are restored; (3) that Governments of India and Pakistan should make a joint request to United Nations to undertake a plebiscite in Kashmir at the earliest possible date.

This statement by the Prime Minister of India, which does him great honour and which is in complete conformity with the principles of the Charter and the principle of the self-determination of peoples, is what we have reproduced in the first part of our draft resolution, namely "that the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations".

Consequently, nothing new is introduced in our draft resolution. We merely reaffirm previous agreements or decisions of the Council, and set out what was accepted previously by the representatives of Pakistan and India.

I do not see any obstacles in connexion with the second part of the draft resolution that might prevent the delegation of India from giving its agreement. The representative of India has repeatedly stated that the decisions of the Constituent Assembly with regard to Kashmir cannot affect these latest agreements and that these agreements cannot affect the final disposition of Kashmir. He stated that he understands that Kashmir forms a part of India by virtue of acts undertaken previous to the Constitution. Consequently, if he fully accepts that to be the situation in respect of Kashmir, a view which is not shared by many members of the Council, then the second part of our draft resolution does not affect that situation.

The delegation of Cuba, therefore, believes that the draft resolution is a reaffirmation of the position of the Security Council and of very clear principles of the Charter. We hold in high esteem the principle of the self-determination of peoples. At a later debate we shall see when and in what manner the plebiscite can be held.

Here, however, I agree with the representative of India that this plebiscite can be held only when certain previous conditions have been fulfilled so that the people shall be assured of being able really to express its will on whether it wishes to join India or Pakistan. Therefore, as a provisional measure, I feel that our draft resolution can quite safely be accepted by both India and Pakistan. It is for that reason that the delegation of Cuba has co-sponsored the draft resolution and will vote for it.

With regard to the substance of the problem before the Council my delegation would, naturally, require further time to study all the different documents and the statements made by the representatives of India and Pakistan. Those statements are very lengthy. They contain many quotations from different documents and different authors, and they cite rules of international law, and so on, which we feel have to be carefully weighed and analysed before we reach a final decision. When the matter does come up for discussion in substance the Cuban delegation will then make its views known.

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Lodge (United States of America): In considering the India-Pakistan item the Security Council faces an unfortunate difference of opinion between two nations, whose friendship and esteem is highly valued by the United States. We desire to help them to find a solution to this problem and we approach the question in that spirit. It is regrettable that this dispute has lasted more than nine years, despite the earnest efforts of the Security Council and of its representatives, the individual efforts of certain members of the Council, and the attempts of the parties concerned.

It is a tribute to the Council and to the parties that a cease-fire was achieved on 1 January 1949 as part of an agreement by India and Pakistan for demilitarization and for a United Nations sponsored plebiscite. Unfortunately, however, and despite the best efforts of the Council and its representatives, the parties have failed to agree on carrying out the next two steps. It is understandable that strong emotion should be involved on both sides of this problem.

One of the first concerns of the Council has always been that nothing should be done which might aggravate the situation. This was made clear and explicit in the Council's first resolution on the case adopted on 17 January 1948. We trust that both parties will do their utmost to continue to approach this question with restraint and that they will take such measures as are within their power to assure the maintenance of a peaceful atmosphere.

We appreciate the fact that the representative of India changed the arrangement of his presentation so as to deal with the Constituent Assembly yesterday afternoon in order to suit the convenience of the Council. It is to this point alone that I now refer and to which the draft resolution is addressed. With respect to the substance of the broad issue, we are studying the remarks both of the representative of India and of Pakistan carefully and we will express ourselves on the issue at the proper time.

The Council will recall that on 30 March 1951 it took note of the proposed convening of a Constituent Assembly in Kashmir and affirmed that any action that the Assembly might take to determine the future affiliation of the State would not constitute a disposition of the State in conformity with the agreed principle relating to the free and impartial plebiscite. The draft resolution we are considering today is basically a reaffirmation of that statement by the Council. It has been occasioned by a complaint that the Assembly referred to in the March 1951 resolution has not only convened but has drawn up and promulgated a Constitution, and that this Constitution does, among other things, relate to the affiliation of the State to India.

Differing interpretations have been put on the meaning and effect of this and other actions relating to the connexion between Kashmir and India, extending back to the accession instrument by the Maharajah of 26 October 1947. But one thing is clear. The Constitution approved by the Constituent Assembly of Kashmir deals, among other things, with the affiliation of the State. This represents an important new element in the situation, and the Security Council is bound, in view of its previous stand, to take note of this. The position taken by the Security Council in 1951, in our opinion, remains valid, and we have adhered to it in this new draft resolution.

Finally, the United States lays stress on the final paragraph of the draft resolution before us. In the absence of a direct mutually acceptable agreement between the parties, the Council has an obligation to continue its efforts, as it has in the past, to seek and to support any fruitful suggestion in this difficult case.

Vesga Duarte (Colombia) (interpretation from Spanish): In co-sponsoring the draft resolution before the Council, my delegation has done no more than to be consistent with its previous conduct in the Council. Due to a happy circumstance, Colombia was a member of the Council in

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1948, when this matter came before us for consideration, and from that time on we have taken the stand which we take today—that is, a position of co-operation with the majority of the members of the Council as far as possible, so that the Council may peacefully solve this controversy between India and Pakistan.

Perhaps I might add that Colombia's interest in this question reflects to some extent the concern of Latin American countries with this type of problem. When we ourselves became independent of our mother country, we had similar problems among us in South America, and experience showed us that only by peaceful means could we achieve lasting solutions.

As has been explained by most of the representatives who have spoken here, this proposal refers, above all, to the procedure to be followed. We know that in international affairs procedure represents almost everything, and consequently it is very important that it be understood that, in reaffirming previous decisions of the Council, as we co-sponsors are asking the Council to do, we are not passing on the substance of the problem. Rather, we are proposing that the forthcoming decision be taken in an atmosphere of peace and understanding between these two great countries, Pakistan and India.

Like the representative of Cuba, I take great pleasure in paying tribute to the magnificent statement made by the representative of India, who held the attention of the Council for more than eight hours with his very great oratorical power. I am happy that, at the end of his speech, he expressed the wish, which seemed to me sincere, that the question would find a peaceful and lasting solution. In co-sponsoring this draft resolution, the Colombian delegation does no more than to express the hope that this wish will be fulfilled as soon as possible.

Tsiang (China): The Kashmir question is in a way unique among the questions which have come before the Security Council. Usually, questions of this kind concern, on the one side, a country in Asia or Africa and, on the other side, some European country. Here is a dispute between two Asian countries.

When India asked that the Kashmir question be put on the agenda of the Security Council at the beginning of 1948, I was in my own country. My Government instructed me to return to the Headquarters of the United Nations immediately and to do my utmost to promote a peaceful settlement of this question. My Government did that not because it made any difference to China whether Kashmir acceded to India or to Pakistan. My Government had a special reason for its active interest in this question.

We in China felt that, at the end of the Second World War, there emerged in fact a new Asia—in other words, for the first time in our history, the possibility of a community of Asian nations. Of course, in the old centuries, there were many Asian nations but, because of the lack of means of communication, there was little of a community. In the nineteenth century the sense of a community grew, but it was not a community of independent nations. It was only at the end of the Second World War that we in Asia faced the reality of the possibility of a community of nations. My Government fondly hoped that we in Asia might even do better than the European nations had done in the past.

In China we did not know too much about European history, but even schoolchildren knew something about Alsace-Lorraine. The Chinese newspapers, at the beginning of 1948, frequently expressed the hope that Kashmir might not become an Asian Alsace-Lorraine to poison this new hopeful community of Asian nations. It was from that angle that my Government instructed me to return to my post as soon as possible and to do active duty in the settlement of this problem.

When I joined the debate I found that the interest in promoting a peaceful settlement of the Kashmir problem was general. I

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have never seen the members of the Security Council sharing the burdens of discussion and proposal so equally as on this Kashmir question. Every delegation was working actively towards a peaceful solution.

During the month of January the Council was presided over by Mr. van Langenhove of Belgium. In addition to presiding over this body, he was in daily consultation with the delegations of Pakistan and India and tried, through private conversations, to bring before the Council some solution that would be agreed. In February General McNaughton of Canada did the same thing. In March it was my turn to preside and I tried to do something. Then, of course, there was the representative of Colombia, whom I remember very well, Mr. Lopez, who, I was told, had once been the President of his country. He did his level best to contribute towards a peaceful solution. Then, as I recall, there was Mr. Philip Noel Baker. Everybody worked hard on this.

Now, I should like to recall another feature of the Security Council of that time. I think I can honestly say that no question has ever been considered by members of this Council in such an objective, unprejudiced, unbiased way as this Kashmir question. Ordinarily, in the United Nations, we know that delegation A might be pro-axis and anti-war. In the Kashmir debate, in spite of many private and public discussions, we were all puzzled as to who was for A and against B and who was against A and for B. Especially do I remember Mr. Noel Baker. I have never seen a man watch his words in public and in private so carefully as Mr. Noel Baker watched his in this matter. This objectivity of the Council of that time would, I think, be manifest to anybody who would read the records of the Council of 1948, 1949, 1950 and 1951.

I should like to call the attention of this Council to another feature. At that time there was no SEATO; there was no Baghdad Pact; and Pakistan, I think, did not have a single military ally. Whether, at the present time, the military alliances and friendships of Pakistan could influence the members of the Council or not, I could not presume to judge, but that kind of prejudice certainly did not exist in the Council in 1948, 1949 or 1950.

Since this debate is in fact the renewal of the debate of that period, I thought that this brief report of the atmosphere of that time might be useful to my colleagues today.

The representative of India repeated both yesterday and today that the question before the Council is not a territorial dispute. He says it is the aggression of Pakistan against India. The letter in which India asked the Security Council to put this question on the agenda contains the word "aggression", and I quote the particular phrase in which it is used:

> ...The Government of India request the Security Council to call upon Pakistan to put an end immediately to the giving of such assistance, which is an act of aggression against India.[1]

Assistance in that phrase meant, of course, a complaint of military assistance to Azad Kashmir and to tribesmen, and, in the course of the presentation of the Indian case by Mr. Ayyangar, that charge was repeated a number of times.

Mr. Zafrullah Khan, representative of Pakistan at that time, made a counter-charge of acts of aggression by India against Pakistan. So we faced these rival charges: aggression by Pakistan against India; aggression by India against Pakistan.

I hope that members of this Council today will take the time to read the records of those years. No member of the Council ever gave serious consideration to either charge, the charge of India or the charge of Pakistan. There never was a proposal made dealing specifically with aggression. In fact, there was no systematic or serious consideration of that charge and of the counter-charge of aggression. The members of the Council, without consultation, all came to the same conclusion, that the charge of aggression should be bypassed.

[1]Security Council Official Records, Supplement for November 1948, Annex 28, page 139.

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That charge was never taken up, never sifted, never even given serious consideration, and I believe it was very wise of the Council to by-pass that charge.

Now it is said that this is not a dispute with regard to territory. However, I cannot understand why anybody should say that this is not a dispute with regard to territory. The basic question is whether the State of Jammu and Kashmir should become a part of India or a part of Pakistan. That is what is in dispute. Is that not a dispute with regard to territory?

This dispute has another peculiar feature. From the very beginning, the Council began with an agreement between two parties. In fact, before the two parties directly concerned ever appeared before the Council, the two parties agreed that the plebiscite should be the answer. What did the Council do? The Council tried to build a solution on this prior agreement that the two parties had before they came to this Council. So the idea of a plebiscite was not imposed by the Council on the two parties.

In their public statements the statesmen of both countries, India and Pakistan, have stated that they would be willing to let the wishes of the people of Kashmir decide the future of that State. In this Council, in his very first statement, the Indian representative, Mr. Gopalaswami Ayyangar, had this to say:

> The question of the future status of Kashmir vis-a-vis her neighbours and the world at large, and a further question, namely, whether she should withdraw from her accession to India, and either accede to Pakistan or remain independent, with a right to claim admission as a Member of the United Nations—all this we have recognized to be a matter for unfettered decision by the people of Kashmir, after normal life is restored to them.[1]

This feature of the discussion is rather rare. We here have known cases when weeks and months of debate have failed to find any element of agreement, but in connexion with the Kashmir dispute we began with a major agreement that the final decision as to the future of Kashmir should be left to the people of Kashmir.

In spite of that good start, we have not had much success. The problem of a plebiscite has bogged down under the conditions for a plebiscite. The Council has spent many hours trying to solve that problem. Our Commissions and our representatives sent to India and Pakistan have spent many weeks trying to solve that problem.

What the Council and the Commission and the representatives tried to do was this. If we could secure agreement between the two parties with regard to some particular condition, we were happy, and we put that down on paper immediately as a condition to which both parties agreed. But when we met with some point on which the two parties fell apart we were all patient to listen to the viewpoints of both and in our fairness we tried to draw a middle line and reach a compromise which we knew that neither party would entirely like but which we thought might be fair enough that both parties would, after all, accept it.

That has not occurred. It is not necessary—and I would not presume to try—to assign blame and responsibility in regard to these conditions. However, I should like to say that a plebiscite was not only agreed on before the two parties came to this Council; it was the unanimous belief of the members of the Council that a plebiscite was the solution.

Furthermore, what is a plebiscite? A plebiscite, in terms of the Charter, would mean the self-determination of a people. Self-determination is expressed through a plebiscite. I would say that all Members of the United Nations, by becoming Members, by subscribing to the Charter, would have to accept the plebiscite.

If we accept a plebiscite we mean, of course, a fair and impartial plebiscite. In regard to this point that a plebiscite must be fair and impartial, I remember very well a sentence that Mr. Noel Baker said to the Council during that period. He told us that

[1] Security Council Official Records, 227th meeting, p. 29.

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the plebiscite not only must be fair and impartial in reality but it must be fair and impartial even in appearance. This fairness and impartiality could sway the passions of peoples. It could decide the question of peace or war.

If we honestly and seriously believe that the future of Kashmir should be decided by a plebiscite, I believe, both parties should not be too meticulous about conditions. The setting of conditions should not be allowed to obstruct the main purpose, that is, to allow the people of Kashmir to have the right of self-determination.

We were told this morning that much has changed. Indeed, some things have changed, but as I listened to the two opening speeches in this debate, I confess, I did not see much change. I was afraid that the representatives from other parts of the world might say that, after all, the old European belief about the unchanging East was accurate. Certain things have changed, but the basic features of the problem have not changed. I believe the principle of a solution should not change and cannot change.

The draft resolution is a simple and modest one. It really reaffirms the stand that the Council has taken in regard to this dispute, and therefore my delegation will support it.

Jarring (Sweden): As a newly elected member of the Security Council, Sweden is now called upon for the first time to pronounce itself on the India-Pakistan question, whereas other members have taken part in previous deliberations on the subject. Hence, now that the question has once again been submitted to the Council, my Government does not consider itself committed to any particular way of dealing with this matter.

In accordance with our obvious duty, we have studied the various aspects of the problem with a view to forming an opinion of what solution should be sought and what procedure should be followed. A primary requirement must be that both parties should refrain from unilateral measures which would alter the *status quo*. Thus, for the time being the present demarcation line must be respected. This implies that the use of force aimed at changing the *status quo* must be excluded. It also implies that the parties should desist from taking internal legislative measures by which the State of Jammu and Kashmir would be considered definitely incorporated in the territory of one of the two parties and which would prejudice the Security Council's continued deliberations on this matter.

It follows from what I have said that my delegation is prepared to vote in favour of the draft resolution now before the Council. Our affirmative vote, however, should not be construed to mean that we have taken a definite stand on the resolutions enumerated in the present draft resolution. In my Government's opinion, the legal issues involved in this matter require further and thorough study, particularly in the light of the statements made by the representatives of India and Pakistan. I therefore reserve my right to revert to this matter at a later stage of the Council's discussions.

Sobolev (Union of Soviet Socialist Republics) (interpretation from Russian): The Security Council is once again discussing the so-called "Kashmir question". As is known, this question first appeared before the Security Council more than nine years ago. At that time it was raised as a question of protecting the population of Kashmir from the hostile activities of certain tribes coming from Pakistan territory and later against the activities of regular Pakistan troops. Subsequently, in the course of the discussion of that question in the Security Council, the original meaning of the question was changed and the Security Council, unfortunately, focussed its attention not on assistance in solving the question of Kashmir under the conditions of a direct agreement between the parties, but on the preparation

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of a plebiscite with interference from outside.

The Soviet Union has always adopted, and continues to adopt, an objective and impartial position which corresponds to the principles of democracy and the strengthening of friendly relations between the peoples of this region. The Kashmir question did not arise among the people of Kashmir itself, it was created almost nine years ago by some Powers which, in every way, attempt to inflate differences between the countries which are carrying out a struggle for national independence and freedom. The position of these Powers in the Kashmir question was not determined by a wish to solve this question in accordance with the interests of the Kashmir people themselves and in the interests of India and Pakistan. These Powers were guided most of all by their own interest to penetrate into this region, which has an important strategic significance.

Of course, such a policy is in complete contradiction to the real interests of the Kashmir people, who are attempting to carry out a peaceful and creative life and who have no desire to become the objective of imperialist designs.

In an attempt to put an end to the vague and indefinite status and to establish political stability, the Kashmir people in 1951 elected a Constituent Assembly. This Constituent Assembly passed a number of important laws, including a law in 1954 which confirmed the accession of the State of Jammu and Kashmir to India. In 1956, the Constituent Assembly of Kashmir adopted the Constitution of the State, according to which the State would enjoy rights of autonomy within the Republic of India.

Thus the question of Kashmir has been settled by the people of Kashmir themselves. They decided that Kashmir is an integral part of the Republic of India. The Security Council cannot overlook these facts.

In substance, the draft resolution submitted by the delegations of Australia, Colombia, Cuba, the United Kingdom, and the United States, in the view of the Soviet delegation, does not take account of the real state of affairs in Kashmir and to a certain extent throws doubt on the fact that the Kashmir question has already been settled in accordance with the expression of the will of the people of Kashmir. The draft resolution just mentioned refers to the resolution of the Security Council of 30 March 1951. As is known, the Soviet Union had already stated its negative attitude at that time as regards that resolution inasmuch as it was from the outset unacceptable to one of the parties to the dispute and therefore could not serve as a basis for a settlement of the controversial questions between India and Pakistan. Now, once again, an attempt is being made to reaffirm the provisions of that resolution of the Council, completely ignoring the basic changes which have taken place in Kashmir since that time.

The delegation of the Soviet Union sees no special advantage in the adoption of a new resolution to which one of the parties to the controversy objects. Guided by this consideration, the Soviet delegation will determine its own attitude towards this draft resolution.

As to the differences which still exist between India and Pakistan on the Kashmir question, their settlement, in our view, should be carried to an end peacefully by negotiations between both parties without any outside interference.

The Security Council for its part should promote the achievement of a peaceful settlement of this question and should therefore recommend to the parties to settle existing differences by means of bilateral negotiations.

Jawad (Iraq): For several reasons my delegation would have liked to make on this occasion a statement on the substance of the matter, to express our position regarding the Kashmir dispute. We believe that such a statement is necessary because of the special position of Iraq in relation to India and Pakistan, two countries with

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whom we have close and friendly ties, past and present, ties of a historical, economic and religious character. Furthermore, Iraq is taking part for the first time in a discussion on the Kashmir question which has been pending for the last nine years and for this reason we thought it would be appropriate to make our opinion known to the two countries concerned and to others who have special interests in the future of Kashmir.

In view of the recent developments in connexion with the step taken by the Srinagar Constituent Assembly regarding the integration of Kashmir into India on 26 January, however, we have decided to postpone our statement to a future meeting, as we feel that it is extremely essential for certain preliminary decisions to be arrived at today to reaffirm the Council's previous decisions regarding the basis and methods for deciding the future of the people of Kashmir.

We consider that the previous decisions of the Council were in conformity with the principles of the Charter. After hearing the statements of the representatives of India and Pakistan, we are inclined to believe that the issue remains basically the same as it was when it was dealt with for the last time in 1952. We find that the draft resolution submitted by the five Powers meets the immediate requirements of the present situation, as the last paragraph of that resolution keeps the question under consideration by the Council and we feel sure that this will assist the Council to find a peaceful and lasting solution of the dispute.

My delegation therefore supports the draft resolution in question and reserves its right to speak on the substance of the problem at a later meeting.

Georges-Picot (France) (interpretation from French): In view of the resolutions which have already been adopted and what has already been said by each of the parties involved and members of this Council, the French delegation at first wondered if the resolution which has been submitted was really essential to dispel certain doubts which had arisen. We think after reflection, that this draft resolution as a stop-gap measure has a *raison d'etre* if it provides us with the necessary time so as to avoid hastening through the debate, but devoting all the time which they deserve to the questions before us.

In this sense the French delegation supports the draft resolution submitted by Australia, Colombia, Cuba, United Kingdom and United States of America, and reserves its right to speak on the substance of the question in a later debate.

The President: I shall now speak as the representative of the Philippines.

My Government has approached the question now before the Security Council with the utmost sympathy towards the two nations, for which we entertain the friendliest of feelings. The Philippines is not deciding this matter in favour of one nation against another. We are not taking sides. We are not, in fact, sitting as if in judgment of a case. We have not the least desire to see the matter aggravated by an exacerbation of misgivings which can but lead to a possible breach of the peace.

We have noted at the outset of the negotiations between India and Pakistan a commendable disposition on the part of both to make things easier for them to come to terms. We have hoped sincerely and will continue to hope that the original spirit of mutual concession would prevail throughout the negotiations in the interests of the peace and welfare of both nations, for which, I reiterate, the Philippines has nothing but the utmost goodwill.

My Government believes with the United Nations representative for India and Pakistan that direct negotiations may pave the way towards the definitive solution of the nine-year-old dispute between the two countries.

This is not to belittle the achievement of Dr. Frank Graham and his predecessors, whose efforts at mediation have considerably narrowed down the area of disagree-

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ment between the parties on the question of demilitarization. As a matter of fact, the last resolution adopted by the Security Council on 23 December 1952, urged the parties to enter into immediate negotiations in order to agree on the remaining issue, namely the specific number of forces to remain on each side of the cease-fire line. The fifth report of Dr. Graham would seem to imply that perhaps agreement would be forthcoming if one or the other of the parties were willing to make greater concessions than he would be entitled to ask objectively in his capacity as mediator.

Be that as it may, the representative of Pakistan reports that the attempts of his country to secure agreement through direct parleys had proved abortive. On his part, the representative of India seems to imply that a truce agreement is no longer possible because of a breach of the conditions which could have put it in operation.

My Government is at a loss to accept either conclusion in the face of the claim put forward by each party that it has done, is doing, or will do, its best to achieve agreement.

Incidentally, may I say at this juncture that the distinguished representatives of India and Pakistan who addressed the Council have given a good account of themselves in the presentation of their respective sides. The Foreign Minister of Pakistan, with his sobriety and moderation, has shown himself to be an able spokesman of his country. Mr. V. K. Krishna Menon, whom I have known for many years, has once more demonstrated his keen mind, his dialectic skill and his unsurpassed argumentative power.

The joint communique issued by the Prime Ministers of India and Pakistan at the end of their meeting in Delhi on 20 August 1953 was a distinct step forward, not merely in its reiteration of the principle of ascertaining the wishes of the people of the State of Jammu and Kashmir through a fair and impartial plebiscite and in the decision to have the Plebiscite Administrator appointed by the end of April 1954, but in the common determination to resolve before that date the preliminary issues that had hitherto blocked progress towards the holding of a plebiscite.

That the promise of this auspicious agreement between the two Prime Ministers was not fulfilled is to be regretted. It is not for me to say which party is to blame, as I have already stated that the Philippines is not deciding this issue in favour of one nation against another. Rather it is for me to express the hope that the good will and the spirit of conciliation that brought about the agreement—and indeed that brought about previous agreements—could again be invoked.

It is worth-while to recall that the basic resolution of the United Nations Commission of 5 January 1949 merely incorporated the proposals governing the cessation of hostilities which were explored in conversations between the representatives of India and Pakistan, and later accepted by their respective Governments.

Perhaps another attempt at direct conversations on the ministerial level between the two parties is in order. Or perhaps the experts' committees brought into being by the joint communique of 20 August 1953, which had covered considerable ground in studying the thorny problem of demilitarization, could be reactivated.

It is gratifying to note from the statements of the representatives of India and Pakistan that their countries had not withdrawn their acceptance of the basic resolutions of the United Nations Commission of 13 August 1948 and 5 January 1949. The representative of Pakistan affirms that his Government accepts the basic resolutions of the United Nations Commission as an international obligation. The representative of India affirms that his Government stands by its international commitments.

Under the circumstances, my Government entertains the hope that continued and persistent attempts at negotiation between India and Pakistan on the future status of the State of Jammu and Kashmir cannot

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but be crowned with eventual success. The recent trade agreement signed by the two countries, so aptly underscored here by the representative of India, is an encouraging sign that they could come together and agree on a satisfactory solution of common problems.

It may have been the original intention of India to seize the Security Council not of a dispute but of a situation which might, by its continuance, endanger the maintenance of peace and security. However, the subsequent filing of a counter-complaint by Pakistan has converted the situation into a dispute within the meaning of the Charter. This is affirmed in the resolution of the Council of 21 April 1948, in which it is stated "that the continuation of the dispute is likely to endanger international peace and security."

There is, however, a disturbing element that has been drawn into the picture which may wreck all prospects of peaceful negotiation or peaceful settlement of the dispute. I refer to the allegation of Pakistan that on Saturday, 26 January, the constitutional step will be taken to integrate the State of Jammu and Kashmir formally into India.

The representative of India, on the other hand, states that nothing of the sort is going to happen on 26 January, and that the critical date, if there was one, was 17 November 1956 when certain provisions of the State Constitution took effect, among them, section 3, which states that "The State of Jammu and Kashmir is and shall be an integral part of the Union of India". In view of these two conflicting statements, we have the draft resolution sponsored by five Powers before the Council.

Ever since the Security Council was seized of the dispute, it has repeatedly called upon the parties to refrain from any action which might aggravate the situation or which would be likely to prejudice a just and peaceful settlement of the dispute.

On the particular question of the convening of a Constituent Assembly as recommended by the "All Jammu and Kashmir National Conference", which was the subject of a previous complaint by Pakistan, the representative of India gave his solemn assurance that the Constituent Assembly was not intended to prejudice the issues before the Security Council or to come in its way, and that while the Constituent Assembly might, if it so desired, express an opinion on the question of accession, it could take no decision on it.

The Security Council was explicit in its disapproval of the avowed purpose of the Constituent Assembly to determine the "future shape and affiliation of the State of Jammu and Kashmir". The Council's resolution of 30 March 1951 affirmed that any action that the Constituent Assembly might attempt to take to determine the future shape and affiliation of the entire State, or any part thereof, would violate the agreed principle that:

> the final disposition of the State of Jammu and Kashmir will be made in accordance with the will of the people expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations.

Again, on 29 May 1951, the Council approved a message to India and Pakistan which noted with satisfaction the assurances given by the representative of India and stated that it was the sense of the Council that the reports contained in the communications from Pakistan, if correct, would involve procedures in conflict with the commitments of the parties to determine the future accession of Jammu and Kashmir by a fair and impartial plebiscite conducted under the auspices of the United Nations.

I am sure that it would be well to reiterate the considered view of the Security Council on the matter so that there may be no misunderstanding as to its position. That view remains valid even if it is found that the Constituent Assembly had its origins much earlier than the request for its convocation by the General Council of the All Jammu and Kashmir National Conference. It is for this reason that the Philip-

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pines supports and will vote in favour of the five-Power draft resolution. (S/3778)

I do not consider a vote in favour of the draft resolution as a vote against India for the simple reason that it is merely a reiteration of previous resolutions of the Security Council. And I have the highest respect for this august body so that I would not accuse it of bias whenever it approved any resolution which a party might consider adverse to its interests.

In all earnestness I would urge the parties to respect the standing resolutions of the Council, which have not been repealed or modified and are, therefore, as valid today as when they were adopted many years ago.

Those are the views of the Philippines on this question which has been before this body for quite a time. They have been, I submit, delivered here in the hope that they will help clarify the doubts over the facts of the issue and help this Council arrive at a clear appraisal of the dispute for the sake of a permanent settlement.

We are of Asia, and Pakistan and India are close to us, not only geographically but also by long historic association which has endured through the years. We know that both India and Pakistan want peace. Our desire is to see the two Governments come to an amicable settlement of their misunderstandings, and I hope to have contributed the efforts of my Government towards that end. With mutual tolerance on the part of the principal parties in this dispute they cannot, my Government trusts, fail to achieve a solution of their problem to their mutual satisfaction and in the best interest of the people of Jammu and Kashmir.

The President: The representative of India has asked to speak.

Krishna Menon: In conformity with previous practice of the representatives of my Government before this Council, I ask for permission, as I am entitled to do under the Charter, to offer my observations on the present state of proceedings before this Council. I would like to preface my remarks by saying that one would consider that the purpose of speaking in an assembly of this kind is twofold. Sometimes the two purposes work together, sometimes one alone is possible. One purpose is to try and persuade your listeners in order that they might come to a judgment that is in conformity with the facts as one sees them. The other is for the purpose of registering a position so that at least at some future time, when considerations of a different character appear, the position would have been stated for the record.

In the past my Government has not paid adequate attention to this because, as has been repeatedly said, our overwhelming consideration at that time was, without being punctilious, to find a settlement. Obviously, in this hard world that kind of thing has its penalties.

So far as the present situation is concerned, we have no right to pronounce on this draft resolution. It is the Council's resolution. It does not bind us. In fact, I suppose some day it will be communicated to the Government of India, which will in turn, in the normal course of business, communicate it to the Government of Kashmir and to the newspapers in India, because it is not a resolution in which we have participated. The Security Council invited us to present our views, and in the normal course of business one would have thought that a resolution on this subject would take into account the presentation that has to be made by the parties which are called before the Security Council. That was the intention of the Charter.

I have no desire to raise unnecessary controversies, but the first draft of the resolution was in my hands before I had not only not finished speaking, but in the forenoon of yesterday. The alterations that have been made are alterations which are more convenient and suitable to the other side. Therefore, any suggestion that I had stated my case on the Constituent Assembly and therefore all they wanted to know had

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been made known, has not been borne out by facts.

I will not refer to private discussions, but I have here documents that have been circulated, and if other people can have them, I can have them. What did I say? My friend, Mr. Cabot Lodge, expressed his appreciation of my having changed the arrangements of the meeting. What did I say? I said the following:

> I must confess that the atmosphere of crisis has been created, or some sort of D-Day or zero hour, for 26 January. But whatever may be the background which we are able to understand, we have the duty to point out what the facts are, and I have therefore decided to change the arrangement of my presentation, (S/PV. 763, pages 33—35).

In order to show that there was not any kind of crisis or anything of that kind.

Then I said the following at the end of the meeting, which the Council may well remember:

> I do not think I would be able to finish my statement in another hour. It will probably take two to two and a half hours, even if I condense everything. The whole of the argument in this case remains (S/PV. 7631, pages 89-90).

No one can possibly comfort his conscience in this matter by thinking that the first paragraph of this resolution represents the facts when it says:

> Having heard statements from representatives of the Governments of India and Pakistan concerning the dispute over the State of Jammu and Kashmir...

While we are not in a position, nor do we desire, to move any amendments, alterations or anything of that kind, I would not want it to be thought in my country that I have not pointed out when this resolution was hatched and when it came out.

Before I go further, I should also like to enter the objections of my Government to certain statements in the Australian submission before the Security Council. I have already elaborated them in my previous statements and I do not wish to take the time of the Council any further with them. This also applies to one other statement made in the Council: we are unable to agree to the last two sentences of the penultimate paragraph of the statement made by the representative of the United States. Those are specific matters to which I want to draw attention.

It has been put out that we are only reaffirming something and therefore are not doing anything new. Since the whole burden of this argument was the reaffirmation, was a new decision—that is to say, it was ignoring all those facts which had been presented during the eight hours—if you come to a decision then you must reaffirm, you have decided on merits.

Therefore, while the Security Council, or those who sponsored this resolution or support it, can take that view, I submit that I am unable to take it. What is more, I have the responsibility to let the people and Government of India know that I have said in this Council that this resolution only takes care to remind us of those resolutions of the Security Council which we have in express terms, declined to accept—that is, the resolutions of 21 April onward. I am not now referring to the resolutions of the Commission.

Secondly, the principle embodied in its resolutions, whether it covers all the detail that goes into these resolutions, also is somewhat of a perplexing problem to us. The representative of Australia told us that he was still in doubt about so many matters, but that has not prevented him from coming to a conclusion.

In this connexion, we are also likely to enquire in India whether it is necessary to reaffirm what, by implication in these speeches, is what the United States—in our opinion, erroneously—regards as an affirmed principle.

There are people who are likely to ask: Has the Security Council no concern about the other principles it affirmed—that is, there should be no aggressions, there should

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be no changing of the conditions that existed in the country, of annexations, of affiliations? The Security Council appears to be willing to sit long hours, even at night, in order to register its objections to what may appear in a constitution, on the ground it changes status. But my people would enquire: Why not at least equal anxiety in regard to other matters that change status? Why was not the Security Council concerned about the incorporation of a part of Kashmir into Pakistan by the Pakistan constitution? Why is the Security Council not equally concerned about the annexation of these territories, about the militarization of them, about the threats of war made in this room?

I say all this not because you will change the resolution, because it was quite obvious that, long before you had even called upon me to speak on 16 January, the representatives of the United Kingdom and Australia had expressed their views as to what they would do. I referred to that in my opening statement yesterday.

These situations do produce some strange spectacles, on which I am entitled to comment because they are political matters. Here we have the representative of Her Britannic Majesty challenging an act of a legislature which has received the Royal assent. This is a very unusual procedure. And we are acting in terms of an act of the legislature which received at that time —fortunately for us—the Royal assent, and not after the termination of monarchy in India. Therefore, in doing what is being done, those people who are connected with those matters are not only challenging us but challenging their common law—because they have no constitutional law—their statutes, their tradition, and the power of the Royal Seal on a bill.

Now we go further and look at what the Commission says—and I am not going to make a long statement. The Commission says, in paragraph 249 of its third report—and I did not say this, but why the resolution passed eight years ago should have such significance, while the investigations of a Commission appointed by this Council and reported seriously would not pass muster with it, also would be incomprehensible to the people of India and to world opinion which is uncommitted in this issue to one side or the other:

> In essence, the problem of the withdrawals lies in the fact that the sequence of the demilitarization of the State, as contained in the Commission's resolutions of 13 August and 5 January, is not adequate to solve the present situation. The situation in the State has changed; the resolutions remain unchanged.

And you gentlemen today have thrown to the winds the caution that is in this: the situation in the State has changed; the resolutions remain unchanged.

With great respect, I say you go a step further and you make sure that your resolutions remain fossilized, because you reaffirm them, preserved for posterity.

Now I must go to the position in regard to ourselves in the second paragraph. I want to say to you again, for the purposes of the record: This paragraph lacks propriety in respect to the Head of the State of Kashmir, a member of the former ruling house.

And I am again surprised that the representative of the United Kingdom should have put his name to it, because the Constituent Assembly in Kashmir did not emanate from the Jammu and Kashmir Conference. This body, which is a body of the representatives of the States in the world and not of private organizations—when the representative of the Government of India has placed before you the constitutional document that deals with it, then to affirm in the resolution that the Constituent Assembly proceeds from some resolution passed by however important a body it is, which has no place either in the constitution of India or in its constituent unit in Kashmir, is, I submit, a piece of impropriety. But we have no remedy, because you have the votes—I mean, the Council has the votes.

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Therefore, I submit that this paragraph, in normal circumstances, is one that would not be passed by an assembly charged with this amount of dignity and this amount of deference to protocol. The Head of the State of Kashmir is entitled, in any case, to consideration as the Head of that State in the normal way.

Reference has been made to what my predecessor, Sir B. N. Rau, said in this Council, and I should have thought that that statement was sufficient to prevent the Security Council from repeating its previous action because, while it may be purposeless to say so—because I have said it before—it is not the Constitution of Kashmir and the Constituent Assembly of Kashmir that make Kashmir integrated, as you call it, that make it a part of India. It is the act of accession under the act of a legislature which received the Royal assent in 1947. Therefore, this Constitution is not what makes any difference, and if the Council is not prepared to accept the statement of the Government of India in regard to this matter about which I have spoken—that the act of the Constituent Assembly flows from accession—what the Council has to challenge is the accession; and I submit that the Security Council is not competent to do so.

Secondly, I desire to submit that this draft resolution refers not merely to the Kashmir Constituent Assembly, but also to the State of India, because these provisions, against which this Council is entering its caveat and proposing this interdict, are part of the Constitution of India incorporated by a Presidential Order in 1954. Therefore, this declaration by the Council now is not merely a declaration in respect of the Kashmir Constitution. The Security Council is telling India what it can have in its Constitution, because if we are to follow this, surely we have to amend the Indian Constitution because the Security Council has asked us to do so.

I have heard a great many arguments in this building about domestic jurisdiction. I have myself on many occasions on behalf of my Government, taken the view that very few people can take shelter under domestic jurisdiction. But for the Security Council to give instructions about the Constitution of another country is the meaning of this declaration, because if the Constitution of Kashmir has to be interfered with, so has the Constitution of India.

Finally, I submit that the Constituent Assembly Act is what in law is called a declaratory act. It does not create anything; it simply affirms the existing state of affairs. And that is what Sir B. N. Rau told the Council. In fact, the Constituent Assembly of Kashmir could not bind the Union of India. If the Constituent Assembly passed some provision which was inconsistent with the Act of the Union, then that would be *ultra vires*, and therefore, no question of binding the Security Council by a resolution passed by a subordinate legislature, or even a national legislature, would arise I should, therefore, like to read what Sir B. N. Rau said in 1951, which was six years ago, and my Government takes the view that in this case particularly, six years have changed a lot of things. At that time Sir B. N. Rau said:

> In effect, therefore, the revised draft resolution continues to ignore the basic facts of the situation in Kashmir, and it includes provisions which we have all along made amply clear that we cannot accept. For a peaceful settlement of the problem it is essential that peaceful atmosphere should be created. The continuous and intensive propaganda in Pakistan for *jehad*, and the levelling of wild and baseless charges against India. hardly provide a suitable background. Nor is the periodic re-agitation of the matter and the constant re-opening of closed issues calculated to promote a peaceful settlement of the question. India desires peace above everything—peace for the world and peace with all its neighbours. But there can be no lasting peace which is not based on fairness and justice.[1]

The only effect that this draft resolution can have, so far as our part of the world is

[1]Security Council Official Records, 538th meeting. para. 22.

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concerned, is to re-agitate this question. It is contrary to the purpose of the Charter under which the United Nations is supposed to be a place for harmonizing conflicting interests. This merely sows the seeds of discord once more. It makes no contribution to any settlement because, irrespective of any resolution, there are only two ways in which any settlement can be reached. One is imposition and I submit that the United Nations has no power under the Charter of imposing a settlement. The other is by the agreement of the two parties. Therefore, today to record another resolution which reaffirms something that one party has rejected, reaffirms the large number of resolutions which we have rejected and which are eclipsed or absorbed by the resolutions of 13 August and 5 January is, in our submission, not calculated to promote the purposes of the United Nations or of the exercise by the Security Council of the tasks entrusted to it.

I have no doubt that those who put down this draft resolution were moved by the highest motives. I have no doubt that they believe this to be a step towards what they think is a settlement. But my Government has not merely to look at the sentiment involved in this matter; it must also look at its implications and its consequences. I therefore wish to state that our attitude towards this draft resolution is the same as our attitude towards previous resolutions.

Khan Noon (Pakistan): I have before me two pictures of Mr. Nehru and his Government. One painted by his representative here, and the other which I shall put to the Council.

According to Mr. Krishna Menon, Mr. Nehru and his Government have already gone back on their international agreements, have already annexed the State of Kashmir to India; it is already a *fait accompli*.

According to the picture of Mr. Nehru in my mind, I think that he is an honourable man representing an honourable people, and although he and his Government have not implemented the agreement yet to hold a free and fair plebiscite under the auspices of the United Nations, not once has Mr. Nehru made a public statement that he will not honour that agreement. In every statement of Mr. Nehru, which one reads in the papers, in Parliament, he has always said that he would honour that agreement and that he would hold a free and fair plebiscite under the auspices of the United Nations.

Now, it is for the people of India to decide whether the picture of Mr. Nehru as painted by his representative here, or the picture that I have in my mind of Mr. Nehru as a gentleman, should be accepted by that great nation. Perhaps it will be a second occasion when Mr. Nehru will have an opportunity to disown what his representative has said here.

Krishna Menon: Mr. President, I did not rise to a point of order, because we in our country are accustomed to this. This is not a question of Mr. Nehru or of the picture anybody draws. It is a question of what is in the resolutions and what are the issues involved, and I think it is sheer impertinence for one representative to come here and challenge the position of the representative of another Government. I shall not go further.

I am sorry that you permitted this impropriety but, so far as we are concerned, there is not one word in the statements that I have made in this Council which can be interpreted to mean that we will not honour our international obligations. In fact I requested this Council to act in accordance with the Charter in these matters. But each State Government is entitled to put its interpretation and, what is more, to draw the attention of the Council to all the circumstances and all the surrounding matters in connection with it.

If this debate is going to go on in the way in which it has gone on in the last three or four minutes, then we are not proceeding

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in the way that we proceeded on the previous day.

I want to say for the purposes of the record that there is nothing that has been said on behalf of the Government of India which in the slightest degree indicates that the Government of India or the Union of India will dishonour any international obligations it has undertaken.

The President: I am sure the representative of India will agree with me that the word "impertinence" should be stricken out.

Krishna Menon: You can strike out a lot of other words. You can strike out the whole of it, as far I am concerned.

The President: It will be so done.

Krishna Menon: On a point of order. The representative said that what I said was not correct. What is the representative challenging? My credentials? I am prepared to make allowances for a representative's lack of experience of this body, but, on the other hand, when he starts talking in that way, if I did not say it was impertinence I would be less than a man.

The President: Is the Council ready to vote? A vote will now be taken on the draft resolution in document S/3778.

A vote was taken by show of hands.

In favour: Australia, China, Colombia, Cuba, France, Iraq, Philippines, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Union of Soviet Socialist Republics.

The President: The result of the vote is: 10 in favour, none against and 1 abstention. The draft resolution is adopted.

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V

8 February, 1957

Krishna Menon: Although India is not a member of the Security Council, nevertheless, since I am the first representative other than the President to speak here since his assumption of that high office, I wish to tender to him the congratulations and the esteem of my delegation and my country.

I should also like to take this opportunity to express our tribute to our distinguished colleague, Carlos Romulo, a great Asian and a very old and trusted and valued representative here at the United Nations.

Before I address myself to the tasks which are before me this afternoon, I should like to ask the indulgence of the Council if I refer to a matter which, although not directly connected with the subject of Kashmir, arises from the proceedings of last Thursday before this Council. On that occasion, the representative of the United Kingdom, in expressing his gratification with regard to the relations between his country and Pakistan and India, said:

> Only the voice of envy would, I think, deny that the Englishmen, the Scots, the Welsh and the Irish—for, on a small scale, we too have our diversity—all those who served the Crown in the old Imperial India and in the transitional period came to feel a deep devotion to the peoples among whom they passed their lives ... (S/PV. 765/Corr. 1)

Not only do I agree with this statement, but I wish to refer to it now because, in the copy of the verbatim record which I have before me, the reference is to the "voice of India" rather than the "voice of envy".

I am quite aware of the fact that my colleague from the United Kingdom and his mighty empire can take care of themselves. Nevertheless, since these words have been telegraphed all over the world, since there is so much bitterness and difficulty in the world as it is, and since this particular issue, in view of the virulent expressions of opinion in the British press, will create further and unnecessary reactions in India, as it has already done, I should like to take this opportunity, if my colleague from the United Kingdom would not mind, since it is really his prerogative, to say that the correct version, and the version that most delegations heard—although some people heard it the other way—was "the voice of envy". I say this because I hope that this correction will go around the world in the same way in which the unfortunate other phrase did.

This afternoon, for the convenience of the Security Council, I should like to outline roughly what my Government intends to submit. And in order that the Security Council may be in a more patient mood—not that it was otherwise before—I should like to say at once that we hope and intend that this particular intervention of ours will be concluded this afternoon.

It is my intention within a brief compass to answer some of the statements made by my distinguished colleague, the Foreign Minister of Pakistan. In doing so I shall not attempt to answer them paragraph by paragraph or line by line, because that would be a very laborious and tiresome process and it would take the time of the Council unnecessarily. I also want to say that it is not my intention, nor the desire of the Government of India, to refer to the personal aspersions and insinuations in that speech because that would be of no interest to the Member States here and, since we are neighbours, I suppose we can take it. I therefore only propose to deal with those aspects of the matter which are directly related to this problem and it is only where the conditions in India are cited as being relevant to the consideration of Kashmir in regard to discrimination and so forth that I propose to correct impressions that have been created.

I said last time that many of the quotations in the Foreign Minister's statement, if either placed in their proper context or

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read with a whole paragraph or section, would probably, in the majority of cases, bear a different meaning. That is the purpose of the first part of my intervention and I will try to make it as brief as possible.

The first of the series of allegations, arguments and contentions is with regard to the position of India in relation to Kashmir. As is well known, Kashmir is—by accession, by the constitutional law of India, of Britain as things were then, and the recognized process of international law—an integral part of the Union of India. It is the contention of the Pakistan Government sometimes that this is not the case. Sometimes the contention is that this relationship was brought about by us by force and by fraud. The purpose of refuting this is not merely that this misstatement should not remain uncorrected but that it is basic to the consideration of the whole question because it explains how our two countries got into the present position.

First of all, there was the use of force in Kashmir. India used force in Kashmir, on the territory of Kashmir, but to repel the invaders. The element of force which brought about or even perhaps speeded up the process of accession and necessitated the ending of the vacillation of the Maharajah of Kashmir has been rightly spoken of by the then Governor-General of India, Lord Mountbatten, who said that the accession had indeed been brought about by violence, but the violence came from the tribes, for whom Pakistan and not India was responsible.

As far as we are concerned, the facts which I would invite Member States around this table to bear in mind are: first of all, to see how we got in there. We got in there for two reasons: first to protect a neighbouring area which was invaded; and it is my humble submission that even apart from any question of accession, even apart from the Cabinet Mission's memorandum and even the partition of India—and I will not refer to particular countries—if another small neighbouring country was similarly invaded it would be the duty of our country to go to its protection even if no other circumstances existed. What is more, in this particular case, the history of the last hundred years shows that the Power which ruled India—and we are the successor State—had always gone to the protection of the Indian princely States when they were in trouble of one kind or another.

Over and above that, in this matter there was the fact of accession to which I have referred. It has been contended that this was brought about fraudulently. I want therefore to refer to the circumstances of force and fraud. It was contended on the last occasion that India became independent on 15 August. Then what was the hurry for the Maharajah of Kashmir to ask for a standstill agreement on 12 August? The implication is that on 12 August there was already a conspiracy between India and the Maharajah in order to establish some relations. I am surprised, as the Council would be if it looked into the documents, at this particular statement. A document was circulated to members of the Security Council containing the telegrams that went from the Government of Kashmir to the Government of Pakistan and the Government of India, and in this document these telegrams bear identical dates, that is to say, they were sent on the same day. So if it can be questioned why the Maharajah asked for a standstill agreement with India three days before the independence, we could equally ask why the Maharajah had asked for a standstill agreement with Pakistan two and a half days before their independence—Pakistan was born half a day before us.

So there was here no attempt to force any position. Indeed, even if it had been the desire of India to bring about that act of accession, there would have been plenty of time before then to get things done. Indian troops could have been there on the same day as our independence was declared; there would have been a new Indian Government installed with the capacity to give orders without any British authority.

[So far as this is concerned I do not want

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to ask the Council merely to take note of the assertions and statements I make, but there is plenty of authority on this matter relating to the fact that India made no preparation for armed intervention—and those authorities are British authorities.

There are published works on Kashmir, in the main hostile to us, being largely based on ignorance of basic facts, from which I propose to quote on this particular question. One of these is a book called *Danger in Kashmir* written by Korbel, a Czechoslovak who was at one time Chairman of UNCIP. Generally speaking his conclusions are not those which bring the matter up to date, but in this particular case he says:

> Though there is no direct evidence concerning the conversations between Mountbatten and the Maharajah, there is reason to believe that the Pakistanis are mistaken in their conviction that Mountbatten from the beginning connived with the Government of India to force the Maharajah and with him the State of Jammu and Kashmir into accession. Mountbatten was very anxious to dispel any doubts about his own position. Speaking before the East India Association in London shortly after, he said:
>
> 'In the case of Kashmir I went up personally and saw the Maharajah. I spent four days with him in July (sic); on every one of those four days I persisted with the same advice', and he went on to say: 'Ascertain the will of your people by any means and join whichever Dominion your people wish to join by 14 August of this year. Had he acceded to Pakistan before 14 August, the future Government of India had allowed me to give His Highness an assurance that no objection whatever would be raised by them."

—in fact the phrase we used was that we would not regard it as an act of unfriendliness.

The same thing appears in another work, again written by an Englishman who formerly belonged to the British-Indian Army and was on the frontier—and most of you know the views of officers of that kind. The book on the whole is not favourable to us.

Lord Birdwood, a British writer on Kashmir, accepted the truth of this position, that is to say, that there was no fraud.

Mr. Korbel has quoted Lord Birdwood to the effect that if we accept this, then we must refuse the Pakistan contention that there was some form of diabolical plot between the Maharajah and the Government of India to stage a situation which would precipitate accession to India.

I shall not read out all these documents, because it will prolong the proceedings. I shall, however, read a quotation from Lord Birdwood, which is on page 42 of his book, *Two Nations and Kashmir*, "I should like to stress the words in the last quotation that there was no previous plot."

A document has been circulated containing the joint statement by the Chiefs of the Indian Staff of the Army, Navy and Air Force. This was in August 1947, when the Commander-in-Chief of the Indian Army was General Lockhart, a British officer. The Air Marshal was another British officer, Air Marshal Elmhurst. The Navy was commanded by another British officer, Rear Admiral Hall, who was lent to the Royal Indian Navy, as it then was. All of these people have categorically denied prior arrangements and made the following statement:

> The following is a true time-table of events, as regards decisions taken, plans made, orders given and movements started in this matter:
>
> On October 24, the Commander-in-Chief, the Indian Army, received information that tribesmen had seized Muzaffarabad. This was the first indication of the raid.
>
> Prior to this day, no plans of any sort for sending Indian forces into Kashmir had been formulated or even considered.
>
> On the morning of October 25, we were directed to examine and prepare plans for sending troops to Kashmir by air and road, in case this should be necessary to stop the tribal incursions. This was the first direction which we received on this subject. No steps had been taken prior to the meeting to examine or prepare such plans.
>
> On the afternoon of October 25, we sent one staff officer each of the Indian Army and the Royal Indian Air Force by air to Srinagar. There they saw officers of the Kashmir State Forces. This was the first contact between officers of our headquarters and officers of the Kashmir State Forces on the subject of sending Indian troops to Kashmir.
>
> On the afternoon of October 25, we also issued orders to an infantry battalion to prepare itself to be flown at short notice to Srinagar in the event of the Government of India deciding to

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accept the accession of Kashmir and to send help.

On the morning of October 26, the staff officers mentioned in paragraph 4 above returned from Srinagar and reported on their meetings with officers of the Kashmir State.

On the afternoon of October 26, we finalized our plans for the dispatch by air of troops to Kashmir.

At first light on the morning of October 27, with Kashmir's Instrument of Accession signed, the movement by air of Indian forces to Kashmir began.

No plans were made for sending these forces, nor were such plans even considered before October 25, three days after the tribal incursions began.

Now this is not a document in the form of an affidavit which we have obtained from these officers. This is a part of the Indian archives, a part of the defence records of the Government of India.

It is true, as I have said, that we used force. But against whom did we use force? We used force against the invaders—against those who committed rapine and murder. The force on the other side was used against the people of Kashmir, who were being aggressed against and who were being subjected to rapine and plunder and loot and arson. There was force certainly used by the two of us, parties who are now here. But so far as our force was concerned, it was used against the invading people and the other force was used against the population of Kashmir.

It does not require much documentation to understand this position. If the tribal forces, which at first numbered 20,000 and then increased to 73,000, according to the estimates, which came into Kashmir over this vast expanse of Pakistan territory, well armed and well equipped for these purposes, were liberators and were friends of the Kashmir people and if they had been wanted by the people, they would have been welcomed as liberators. The Indian Army was welcomed as an army of liberation. These other forces, however, were not so welcomed. They were regarded as enemies. They subjected the population, as I stated the other day, to cruelty. When the country was rid of the bulk of them, the people were happier. It was not a question of our using force or fraud of any kind.

The Foreign Minister of Pakistan stated on 16 January that eleven proposals had been put forward each of which Pakistan accepted and each of which India rejected. It would be an imposition upon the Security Council for me to repeat what I said about this matter the other day. However, since no intelligent appreciation of the present situation can be arrived at except by a study of these matters, I would merely like to say, to save the time of the Council, that the first reference to this matter appears in the statement by the Foreign Minister of Pakistan in the verbatim record, S/PV. 761, pages 19 to 21, and that the answer made on behalf of India appears in the verbatim record, S/PV. 764, pages 7 to 37. Therefore, in approximately thirty pages, which must run to about 8,000 or 9,000 words, we have examined and refuted and rebutted each of these allegations. There is only one on which it might be claimed that there is a qualified rebuttal, and that is with regard to the issue of arbitration. We spoke at great length on that question, and so as to save the time of the Council, I refer the Council to Annex 36 of the Third Interim Report of the UNCIP.

The position was that we were willing to go to arbitration, but we were not willing to let the arbitrator decide on what was going to be arbitrated. That would be a travesty of justice and a denial of all the principles and rules of law. A lawyer, no matter to what system of jurisprudence he belongs, will say that it is not for the judge to decide beforehand what are the issues on which he is going to try the case except within the context of a case that is presented. That, therefore, is what we objected to.

The Government of India has all along, that is, from the beginning of this dispute when my predecessor, Mr. Gopalaswami Ayyangar, spoke here and on the last occasion when we met with the United Nations

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representative, Dr. Graham, always maintained that we do not subscribe to any position which was *ultra vires* of the two resolutions of the UNCIP. We were prepared to examine any proposal within that ambit. However, it is not for a commission or a representative to go beyond that and form some new principle. That is why the use of arbitration was declined by us. I believe that a fair examination requires an understanding of this situation.

I am happy that with regard to several of the answers I have given my friend from Pakistan either has accepted what we have said or does not think it worthwhile pursuing. The first relates to the massing of troops by the Union of India. It is not possible in our country, even in defence matters, to deal with things in secrecy. There is Parliament, there are questions in Parliament, there are newspapers, there are moneys to be provided by budgetary drafts; but on a definite allegation that was made, I replied, on behalf of my Government of which I have the privilege to be a member, with a categorical denial that there had been any massing of troops or any importation of new troops into Kashmir. Indeed, on the day when we were supposed to be preparing for this adventure, the more important Generals of our army, as I said the other day, were playing a polo match in Calcutta. It may be that in some cases Generals are not thought to be an essential part of an army, but our army requires them. So, that has not been pursued.

My Government asserts—not alleges, but asserts—that in the area under Pakistan occupation, which Pakistan has illegally, contrary to its own law, contrary to our law, contrary to international law, contrary to the decisions of this Council and contrary to the provisions of the Charter, incorporated in its Dominion, airfields capable of taking military planes have been prepared. I gave the measurements of these airstrips obtained from our own information—every Government has its own way of discovering these things—and I said that some of them had runways about 2,000 yards long which had been extended. The answer of my colleague from Pakistan was that I was what I looked—an ignoramus—and therefore did not know what I was talking about. He said that it takes 3,500 yards for an ordinary jet plane to take off. First of all, I was not talking about luxury jet planes; I was speaking of fighter planes, and in any case quite recently—and I am sure that the representative of the United Kingdom will not mind my mentioning this—that very beautiful plane, the Comet, arrived at Delhi at our airport there. We have only a 2,100 yard runway, but the Comet landed and took off again. There was no Indian rope trick about it; the Comet just landed and took off again under its own power.

We happen to know what the Pakistan Air Force consists of; we happen to know what runways are required for different purposes, and the strips of 2,000 yards they have there are capable of being used for the fleet of Sabre jets that the Pakistan Government is now possessed of. Therefore, I make this correction for two reasons: First of all, one likes to be in the right when one makes a quotation. Second, the fact does remain that the area occupied by Pakistan is not administered by local authorities such as UNCIP envisaged. Although it is an area where, *de jure*, the rights of defence and external affairs are vested in the Jammu and Kashmir Government and, therefore, in the Union of India, it has become a military outpost of Pakistan.

I shall not labour the point with regard to the distance of Pakistan military concentrations—not necessarily against us—but they are normally ones which, when hostilities or the contingency of hostility arise, become a matter that has to be taken into consideration, any my submission in reply to the contradiction of my figures by Mr. Firoz Khan Noon is that I am prepared—as I hope the Council will be prepared, and as I am sure Her Majesty's Government will be prepared because they rely on them—to

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rely on the ordnance survey maps of India, which are supposed to be very good; in fact, they are borrowed by a great many geography libraries in the world, and I am told that the British Government started them one hundred years ago. These distances are air miles in the majority of cases, and sometimes they are the distances by military roads.

My colleague has argued that all the facts I gave about the improved conditions in Kashmir were no answer for self-government or self-determination for the Kashmiri people. As a principle, I could not agree more. It is an old maxim—becoming somewhat worn out in these days of collective States—that good government is no substitute for self-government. But that is not the issue here. What my Government was submitting was that after having been hung up by the dilatory procedures which did not bring about the plebiscite, the Government of India, having the general responsibility for the economic, social and political development of its people, had introduced the necessary measures, and that certain results had been achieved.

Those things have to be placed side by side with the picture on the other side when we speak of a plebiscite. For example, if on one side there are open assemblies, free discussion, criticism, opposition and, what is more, 70,000 tourists going in from outside, while on the other side there is no such thing and, what is more, when Pakistan itself has had no general elections whatsoever, then, of course, there are two pictures that are rather different. That is the only purpose of my putting this forward apart from the fact that, in my humble submission, the application of the minds of the Member States represented in the Security Council to this matter would, as I shall point out later, have to be conditioned largely by the conditions in South-East Asia, by the fortunes of the people of Kashmir on either side, and by those of the peoples of India and Pakistan. I do not claim to speak for them in the same way that my colleague spoke of the necessity of guarding our reputation.

There are two other points before I go into the main matter under this particular section. One relates to the Constituent Assembly. That covers not only the speech made by my colleague but also the position taken up by the Security Council, and I beg representatives to listen to this very carefully. The Council passed a resolution the other day, and it is thought that it was repeating a resolution which it had adopted some time ago. My Government made the same statement that was made by my predecessor Sir Benegal N. Rau from the seat of India at that time. The Constituent Assembly of Kashmir did not establish any new relations between the constituent state of Kashmir and the Union of India. It did not create anything. It was what the international lawyer calls a declaratory act rather than a creative act. As I say, it created no new relationship. That relationship had existed for a very long time.

I have said all this before, but there are two facts to which I did not draw the Council's attention. One is that—and here I speak from memory—somewhere about 1949 when the Indian National Constituent Assembly decided to reserve four seats for the representatives of the Government of Jammu and Kashmir, Pakistan protested to the Commission—on the same basis, namely, that it was an illegal action, an action of our jumping the gun. We were, it was alleged, anticipating what was to be done by the plebiscite. We took the view, however, that we could not, under our constitution, or, indeed, under the Declaration of Human Rights, deprive any part of a people of the rights that it enjoyed otherwise. So we went on in that way. Pakistan protested to the Commission, and this is what the Commission said:

> In the Commission's view, it is difficult to oppose the measure of the Indian Government on purely legal grounds. The Commission did not consider there was any useful purpose to be served in approaching the Indian Government on this matter.[1]

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If this had been an illegality the Commission—which had meticulously gone into every point and had been very careful to remind us whenever we even suggested something that it thought was straying from the path—would have told us it was wrong. That was four or five years ago. There were no protests at the time, and therefore the relationship of a union to a constituent state was made.

In this connection may I say with all respect that, in our submission, the Security Council was misled into believing that on 30 January some act of annexation was going to be carried out. No annexation was contemplated. It could not have been contemplated or carried out, because, as the Prime Minister of Kashmir asked: "How can you annex your own country? This territory has already been part of India for a long time."

I have before me the various dates in the progress of this Constituent Assembly, from 1944 onwards—in other words, long before there was a dispute over this matter. As I have already pointed out, the present phase arose from the proclamation of the Maharajah.

My Prime Minister has pointed out in a speech, and I believe has brought to the attention of the United Kingdom Government, that the challenging of the position of the Constituent Assembly was in fact the challenging of an Act of Parliament—I said that myself here, but, of course, my voice does not carry the same weight as that of my Prime Minister. Thus, there was no crisis; no annexation took place; and the Security Council has again been misled. As the Council is aware, it has also been misled with regard to Pakistan's intervention; in fact, it is because of that fact that this whole matter has arisen. And this is another occasion on which the Council has been misled.

All that happened on 26 January was that the Constituent Assembly was dissolved.

I have been asked by my Government to submit the following to the Security Council. Let us assume, for the sake of argument, that the Government of India had undone the processes of the Constituent Assembly and had undone the work which that Assembly had carried out for a period of five years. What would have happened? The entire financial integration of this State with India, the functioning of the Comptroller and Auditor-General of India, would have been thrown out of gear. The authority of the Comptroller and Auditor-General of India in respect to financing applies not only to Kashmir, but to every State in India. Every State in India survives financially by means of subsidies from the Centre, that is our taxation system. The States have certain local rights of taxation, but their main expenditure is covered by subventions from the Central revenues. In addition to the financial system, the entire judicial system in Kashmir would have gone to pieces. There would have been no courts, no high court judges; the judges are appointed by the President of India. There would have been no jurisdiction by the Supreme Court, in which is vested the power to enforce the fundamental rights of every citizen of India and from which every citizen can obtain a writ. The customs barriers which have been abolished, thereby contributing so much to the prosperity of Kashmir, would have been reinstituted. In various other respects the State would have been thown into chaos.

Now, I have not made those observations in order to defend our attitude in this matter. We need no defence, because we have acted constitutionally and in terms of the Charter; we have not contravened any Security Council resolution. I shall revert to this question later.

We only wish, in all humility, to say this to the Council: In adopting the most recent resolution, the Council was taking a decision which, if we had been foolish enough to implement it, would have thrown the

[8]/1430. Appendix, para. 37.

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area in question and the three and a half million people who live there into chaos. There are various popular ways of expressing this, but that is what I wish to submit to the Council.

Mr. Firoz Khan Noon, in his last statement to the Council, made a large number of quotations, saying in each case that the quotation either proved his case, refuted something that had been said, or revealed that we had misstated the facts. The Council may remember that, when Mr. Romulo, who was then President, was kind enough to ask me to offer my observations, I said that when the extracts that had been cited by the Foreign Minister of Pakistan were fully quoted and placed in their proper context, the picture would be rather different.

One of the quotations which Mr. Noon made in this connexion was the following:

(i) In response to the Commission's truce proposals of 15 April 1949, providing for withdrawal of the entire Pakistan Army, the Government of India agreed to withdraw a very small number of their forces. According to the Commission, 'this reduction was considerably less than had been suggested in the Commission's plan for the three-month period and in no case could be considered to constitute the bulk of the Indian forces'. (S/PV. 766, page 8).

Now, I should like to read out the entire paragraph of the Commission's report from which Mr. Noon took the above mentioned extract:

In response to the Commission's proposals of 15 April, the Indian representative (annex 20) said that the presence of thirty-two battalions of Azad Kashmir forces was a factor which the Government of India had to take into account in determining the phasing of its withdrawals. He pointed out that during the seven-week period for the withdrawal of Pakistan troops, the Government of India could not, with due regard to the security of the State (Krishna Menon: and the Government of India was responsible for the security of the State), to the maintenance of law and order and to the sealing-off of the border against unwarranted infiltration, withdraw more than twelve battalions. [This reduction was considerably less than had been suggested in the Commission's plan for the three-month period; (Krishna Menon: the period referred to now is seven weeks), and in no case could be considered to constitute the bulk of the Indian forces.]. He wrote that further withdrawals would depend upon and would have to be regulated according to the actual disbandment and disarming of the Azad Kashmir forces.(S/1430, paragraph 236).

Thus, Mr. Noon's quotation gave only part of what had actually been said. I have before me a number of similar quotations by Mr. Noon, but I shall deal with only one other.

Mr. Noon said:

(iv) The Prime Minister of India rejected all proposals for the demilitarization of the State that were put forward by Sir Owen Dixon, the United Nations representative for India and Pakistan. In the end, Sir Owen Dixon 'became convinced that India's agreement would never be obtained to demilitarization in any such form or to provisions governing the part of the plebiscite of any such character as would in my opinion permit the plebiscite being conducted in conditions sufficiently safeguarding against intimidation and other forms of influence and abuse by which the freedom and fairness of the plebiscite might be impaired'. (S/PV. 766, page 11).

Standing alone, this is a very stark statement. But the fact is that the whole of the discussion in question took place in the context of Sir Owen Dixon's saying, "If the plebiscite is not the method, we must try and find something else." That was not quoted by Mr. Noon, but it is what Sir Owen Dixon was saying. The fact remains that according to Sir Owen Dixon (S/1791, para 98), under the resolution, India's agreement to the course to be pursued in these matters is a prior condition to the carrying out of the plebiscite. It is therefore not as if something reasonable and *intra vires* had been put to us and that we had rejected it.

I shall refer to only one more quotation, because, while I said I would not go into any matters of personal insinuations, the Foreign Minister did refer to a part of my statement in which I was supposed to have misquoted him. Had I done so deliberately it would have been an offence for which I should apologize not only to him, but to the

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Council and to my Government. This is what Mr. Noon said:

Before I close my remarks I should like to refer very briefly to the incident the other day when I interrupted Mr. Krishna Menon's speech, for which I am very sorry. I was not aware of the practice of the Security Council. But the Council will recall Mr. Menon said that I had said in my statement that Pakistan was not bound by any international agreement—and there he stopped. I interrupted and said that that was not the whole of my remarks, and that he had quoted only half the sentence. I am grateful to Mr. Menon for the fact that, upon that interruption, he read the whole remark, which was to the effect that Pakistan is not bound by any international agreement regarding this case, except the two resolutions of the Security Council. Thus, he had omitted to read the second part of the sentence, 'except the two resolutions of the Security Council'.

That reminded me of the story of a young Mussulman who was one day chided by his priest in the mosque that he did not say his prayers regularly. The young man said, 'But, Sir, it is written in the Holy Koran that one should not go near prayer'. The priest was astounded, and said, 'Bring me the Holy Koran'. The young man quickly brought the Holy Koran to the priest, and showed him where it is said 'Thou shalt not go near prayer'. But the priest said, "Why don't you read the other half of the sentence, which says, 'When thou art in a condition of drunkenness'?" (S/PV. 766, page 43).

I will come to that in a moment, but let me just read what I said:

The Foreign Minister of Pakistan said that in regard to this Kashmir matter he had no other international obligations than those that are to be found in these resolutions. (S/PV. 763, page 87).

I do not know what that means. Then I went on:

I agree with that, but to a limited extent in the sense that we have to interpret this agreement in the terms of these two resolutions to which I have referred; but if it means that the international obligations of the Charter are not binding, then I join issue with him. I am prepared to confirm that. I subscribe to the view that in the discussion of any procedure, of any particular decision, of any agreement reached, these resolutions are what are binding in the circumstances I have submitted to you. But it would be wrong, so far as we are concerned, for a Member State to argue that there are no other international commitments. (Krishna Menon: That is a truism) The Charter is a commitment for every State, and when the time comes to sum up these observations at the conclusion of these meetings of the Security Council, we shall fall back upon our bounden duty to ask all of you to address yourselves to the provisions of the Charter." (Ibid.)

When the interruption came, Mr. Noon said, "I am sorry, but that is a misinterpretation of my statement". The President said that he had no right to interrupt, and I continued:

I will read out the quotation. I thought that by not doing so before, I could save time, but it will be seen that my slow procedure is the quickest in the long run. The representative of Pakistan said.....(Ibid., page 88).

I then read out the whole of the paragraph to which he has made very generous reference. Now we come to this quotation from the Holy Koran. The Holy Koran is the scripture for a very considerable part of our population, and it is held in respect by the remainder, and I regret that the quotation from it invited the degree of levity it did. What was the gravamen of the charge? It was stated that I had quoted only a part of the sentence, but let us look at the Holy Koran itself. The representative of Pakistan said:

The young man said, 'But Sir, it is written in the Holy Koran that one should not go near prayer'. The priest was astounded, and said, 'Bring me the Holy Koran'. The young man quickly brought the Holy Koran to the priest, and showed him where it is said 'Thou shalt not go near prayer'. But the priest said, "Why don't you read the other half of the sentence, which says, 'When thou art in a condition of drunkenness'?" (S/PV. 766, page 43).

May I follow the example of this distinguished priest and read the whole of the sentence from the Holy Koran? It states:

O ye true believers, come not to prayer when ye are drunken (Krishna Menon: that is as far as it went in Mr. Noon's citation) but wait till ye can understand what ye utter, nor when ye are polluted, unless ye be travelling on the road, until ye have washed ye.

That is to say, let us not invoke moral laws unless we are prepared to use them

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ourselves, so that even in this quotation from the Holy Koran we have support of our position.

Now I come to the most important part of the statement made. I am not going to refer to the quotations and documents I have before me—I am going to put them all on one side— but I wish to deal with the alleged question of discrimination against the Moslem minority in India. Of course, this minority numbers nearly 50 million. In regard to this minority, various allegations have been made. It has been said there is no civil liberty in India, there are frequent communal riots, and there is discrimination against the people of Moslem faith in regard to our public services. In fact, it is what may be called a captive or police State. I would not have referred to this, but for two reasons.

First of all, it is of some importance, not only to my country but to the world, that we maintain a high level of parliamentary democracy, and to be told before the Security Council that these are the conditions is not so much a slur upon us as it is a disservice to this cause, particularly in our part of the world. In a country, where in the next month an electorate of 193,129,924 people are entitled to vote to elect 494 people to the Lower House of Parliament and 3,102 people to our State legislatures, using 200,000 polling stations and 2,960,000 ballot boxes for exercising their secret ballot, such a picture of a police State is far from the facts, but it is not so much in defence of our democracy that I raise this, but to point out that the argument was based on the statement that all these people in Kashmir are under our "occupation".

I was very pained to listen to two aspects of this question. I did not conceal from the Security Council the fact that we have a Public Security Act, indeed, I could not, because it is discussed in Parliament. We hope that when our democracy becomes more established this will become merely one of those things which do not operate, as it is in the United Kingdom, for example, under the emergency powers. But we have very considerable problems of a social order. We have had a background of independence and in the aftermath of independence of communal friction. There are various other cases of subversion, but, as I said to the Council the other day, this Act is exercised under very strict safeguards. A man has to be told what he has been arrested for, and he can go before a tribunal and make a representation. If the tribunal says that he must be released, then we have to release him.

Over and above that, he can invoke the right of *habeas corpus*... But we cannot dictate to the courts that the high power writs such as *mandamus*, *certiorai*, or *habeas corpus*, should not be given. That is for the court to decide.

But, of course, our friends on the other side have legislation—I hesitate to say similar legislation—or ordinances for this purpose. Far be it from me to say that two wrongs make a right, but I think we must get some sense of proportion on this. Since Pakistan came into existence, imperfect as our information is, 251 political leaders have been arrested or detained without trial. These included Mr. A. K. Fazlul Huq, Governor of East Pakistan; Mr. H. S. Suhrawardy, the present Prime Minister; Mr. Ataur Rahman, the present Chief Minister of East Pakistan; Dr. Khan Sahib, a great veteran of the national movement and now Chief Minister of West Pakistan; Mr. Khuhro, ex-Chief Minister of Sind, Mr. Kazi Fazlullah, Ex-Minister of Sind, etc., etc.,—a whole list of Cabinet Ministers or ex-Cabinet Ministers. Then, of course, there is the great veteran, Mr. Abdul Ghaffar Khan, well-known to the world as the "Red Shirt Leader", who had been detained for years without trial in spite of all the representations in friendliness that we made; and we have the right to do so. In addition, dismissal from ministerial office has not been an unusual occurrence.

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But in the Pakistan-occupied area of Kashmir, the present President of the Azad Kashmir Government, Sardar Abdul Qayum Khan, Chaudhury Hamidullah Khan, the ex-Minister, Chaudhury Mohd. Akbar Naqvi of Mirpur—all these have been detained. There are a number of other cases, including 340 political workers who, according to the Moslem Conference memorandum to the Pakistan Constituent Assembly, were detained after the preliminary disturbances during which a large number of Poonchis were killed. According to the leader of the Azad Movement at that time, 130 are still in detention without trial.

I have read this out, not with any gusto, not with any pleasure, but it is necessary to see the perspective of the picture, and I confess that in infant democracies, a degree of limitation on freedom, academically reprehensible, is sometimes inevitable, but there are considerable safeguards in our case because it has to be re-passed by Parliament every six months.

But what grieved my delegation most was Pakistan telling the world that in our public services, in our Army and our various other public avenues of expression, religion was a bar. That would be unconstiutional and, what is more, under our law, would be punishable by imprisonment.

The Foreign Minister of Pakistan referred to the Public Services examinations. For a considerable time the head of the Public Service Commission in India—corresponding to the Civil Service Commission in the United Kingdom—was a distinguished Moslem. On account of ill-health he resigned. It is quite true, as has been stated, that no Moslem candidate was successful in the Defence Academy examinations for the Air Force held in June 1954, and in the United Provinces Civil Service examinations in 1955. I submit that that is only another proof that we do not interfere with these bodies that are placed outside the Administration in the interests of the community, even if our intervention is on the side of the angels. We could not go in and say, if a candidate is not according to the standard, that he is either a Moslem or a Hindu or a Brahmin and, therefore, he must be taken. The examinations, however, are on a competitive basis under the control of the Public Service Commission concerned, in the case of civil applicants, and under the control of the Union Public Service Commission and the Service Selection Board for entry in the National Defence Academy. A Moslem candidate was selected by the United Provinces Civil Services in 1954.

When we come to the armed forces, the following number of Moslems were commissioned in the armed forces in the last four years—and the number of commissions in each year is very small: in 1953 six; in 1954 eleven; in 1955 three; in 1956 seven. So this does not show discrimination on the grounds of religion. But the most important thing in this matter is this. The results of the National Defence Academy examinations in 1954 have been mentioned and it is pertinent, therefore, to mention that the Commandant of the Academy is Major-General Habibullah. That is not the name of a high class Brahmin; it is a Moslem name. He is a Major General in the Indian Army and he is the head of the Academy, and there are plenty of Moslems holding comparatively high offices in the Indian Air Force, considering that it is a young Air Force—we have Group Captains, Wing Commanders, Squadron Leaders, all occupying high offices. The same applies in the Navy.

Reference was made to communal riots, and I think it is important that we should give the facts in connexion with this. I believe that the facts given by the Foreign Minister of Pakistan are probably correct. Even if they are not accurate, we are prepared to accept them.

There have been communal riots in India. It is to our lasting shame that the passions of our people are inflamed in the name of race and religion. Their guilt of the assassination of the founder of our nation casts its

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shadow on our history and will do so for a considerable time. We accept this guilt; but the question is whether it is due to the state of our organization and our administration. The fact is that there have probably been 350 communal riots in India since independence.

What is the position in Pakistan? I am not talking about the whole of Pakistan, but only of Eastern Pakistan, where there is a Hindu minority of a considerable size. In 1950 the Prime Ministers of India and Pakistan signed an agreement for the protection of their respective minorities. They decided to help each other and appealed to people on either side. Since that agreement was signed in 1950, there have been 8,021 cases of communal incidents in which the minority community were the victims, and these have been brought to the notice of the East Pakistan Government. As many as 1,762 of these involve offences against women. Members of the minority community have been leaving their hearths and homes and migrating into India after being discriminated against and seriously concerned about their honour and security. The following are the migration figures: in 1955, 239,031 people came from Pakistan into India, leaving their Pakistan homes—and I have the figure here month by month; in 1956, beginning in January, there were 19,206, and up to August, 47,065. I have not the figures for the latter part of the year but, since India became independent, four million members of the minority community have come over from East Pakistan to seek refuge in India; and we have given them asylum.

I propose, since I do not want to take too much time, to circulate for information an account of this exodus, published in the *Manchester Guardian*, which finishes by saying: "Pakistan is playing with fire. By comparison, Kashmiri border incidents are not even flickers." We regret this. In India we do not make much of this matter because one way to add to communal fury is to give too much publicity to this information. I regret that this has been drawn out of us. We do not say this with any gusto. We take our share of guilt. We say that our country is still not living up to its standards either of non-violence or of respect of other people, religions, races or communities. But the penalties imposed are severe; the vigilance exercised is considerable, and the propaganda for eliminating the cause of the friction is country-wide. Now, this is half of Pakistan— much less than half in area, but more than half in population.

Those are the facts that were put out and on which I thought I should enlighten the Security Council as to how far they are right or how far they are wrong. It may be asked, why should the Government of India take the time of the Security Council in order to deal with matters that are largely the domestic concern either of Pakistan or of India? The reason is very simple. Because the basis of the Pakistan "claim" is that Kashmir is populated by Moslems and for some reason, which is extra-Charter, extra-constitutional, extra-legal, by some primordial rights, these people really belong to the other side, irrespective of all legal and other arrangements that are made.

We are proud of the fact—a fact which my colleague described—that we are a secular State. We make no difference between different religions. There are 5 million Roman Catholics in India and we have had no difficulties, and I hope that they have not had any. We have not heard of any. And that is the position.

That completes my answer to the statements that have been made. The next part of my intervention in this matter is to deal with the situation we have before us. I said the last time that the so-called Jammu and Kashmir problem that is before the Council had arisen as a result of a complaint which in substance is of aggression or of invasion, because abetting a crime is the same as a crime or participating in it. You can be an accessory before or after the fact—a description not known to English law but

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known to other systems. So that was where it began. Two answers have been given and two thoughts are in the minds of the members of the Security Council.

One is what Mr. Tsiang referred to the other day, that we decided to by-pass the question of aggression. I have been at some difficulty in trying to deal with this matter because we have no desire to enter into controversies with members of the Council. We are invited here to state our case and I hope that I will not say anything that infringes upon your status as members of this august body. But I do not know what "by-pass" exactly is intended to mean. By-passing means not traversing that region. That does not mean that the region does not exist. A by-pass is usually a short-cut to your goal. If you cannot get to that goal because some trees are across the road or because the road has fallen away, then you have to go back to where you started from and go along the normal road.

Therefore, even taking this 'by-passing', it does not constitute any kind of non-existence of this fact. I refer the Council to the various statements that have been made in this order: First, there was a set of statements at the beginning of this difficulty. Then Mr. Gopalaswami Ayyangar, Sheikh Abdullah and others made statements before this Council, and each time a proposal was put forward they entered a caveat and said: Our original complaint is this: we do not move away from there; we are prepared to consider other matters.

This process has been repeated in the whole proceedings of the United Nations Commission for India and Pakistan (UNCIP). The sovereignty of the Jammu and Kashmir Government has never been questioned. That is why Pakistan has never been given a place in either the plebiscite organization or anything of that character, or indeed, in the Government of the occupied area, which was supposed to be given to the local authorities. Therefore, although I have the papers here, in view of the time, if you will permit me, I will not read them. From the very day we brought this complaint and on each subsequent occasion when Sir Benegal Rau, a member of this Council, spoke on this matter several times, we have emphasised this point. That was one of the main difficulties in dealing with General McNaughton; we thought that the procedure suggested—not adopted, but suggested, and they were only suggestions—by both General McNaughton and Sir Owen Dixon were *ultra vires* of the UNCIP resolutions, because the UNCIP resolutions accepted something as basic. And we will come to that in a moment, because I have to deal with it fully according to the instructions of my Government.

Then came the period when we were in negotiations, and proposals of various kinds with Sir Owen Dixon and, afterwards, with Mr. Graham. I ask the Council to look at the five reports of Mr. Graham. In each of these, there is mention of the position we have reaffirmed and they are set forth categorically as our position.

We have never resiled from the position that the problem before the Commission is one of invasion. That arises from the fact that Kashmir is an integral part of India and it became a part of India by law, by the right of protection, and by the desires of the people as far as we could ascertain them. The question was asked of me yesterday by a very good friend, a person for whom I have a very great regard: If this were so—he used some other words which are not very parliamentary—then why in the world did you suggest a plebiscite?

I want to make this very clear; it is a little bit abstruse probably: The accession is complete. But it is possible for any sovereign government to terminate an accession after the accession and the incorporation in law and in fact of the territory acceded. And if you will read the original complaint, what does it say? It says that if we are to meet this aggression effectively, we would have to invade Pakistan. That is an ordinary elementary prob-

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lem of military science, I am told—I am not a military man—and we said, this is what we do not want to do; we do not want this to develop into an international war between us, which may have other consequences. We warned you to ask them not to give succour and aid, not to assist them, and so on.

Therefore, we came here. With regard to this whole question of a plebiscite—it was not a plebiscite in the beginning—it was what is called a reference to the people, ascertaining their wishes or something of that character; no particular form was given to it. It arose from our own voluntary statement, originally addressed to the Ruler, an engagement between ourselves, our consciences, and the peoples of Kashmir. But, at any rate, its relation to accession is this: any discussion, any resolution, any statement here of our common desire to finally decide this matter by plebiscite is not either in law or in fact or in political argument, in reality or in truth, any admission or any belief founded upon an idea that there is such a thing as temporary accession. The accession, it is true, can be terminated by our sovereign will.

It is possible for any sovereign State to cede territory. If, as a result of a plebiscite, if ever it did come, the people decided that they did not want to stay with India, then our duty at that time would be to adopt those constitutional procedures which would enable us to separate that territory. That is what is likely to happen in regard to the French possessions in India. By friendly negotiations, these small territories have been transferred to India, *de facto*, their administration. Some day they will be transferred *de jure*. We cannot ignore the constitutional procedures of France. When the time comes, there will be a treaty which cedes in law and then it no longer is French territory. And here I am not revealing any secret, because it is part of published news, but neither they nor we are rushing this matter because there is no need to do so. It was all done in a friendly way. Therefore, when we offered a plebiscite, or rather suggested a plebiscite, we had these things in mind. First of all, we wanted to find ways and means where the spreading of this conflict could be avoided and bloodshed could be done away with. Secondly, we were prepared to accept a test. Now a test does not in any way argue that the union does not exist. But we were prepared to put the union to the test.

A member of Parliament or a Government may be safely in office. They may even have a comfortable majority. They may be challenged in the country on a particular issue. Then they may take it into their heads to go to the country and ask for a mandate. There is no obligation for them to do so. The fact that they appeal to the electorate does not mean that theirs is an illegal government. It simply means that if the mandate goes against that government, it ceases to be a government. Therefore, to argue that because a plebiscite was suggested this becomes disputed territory—and the word "dispute" occurs in no resolution of the Security Council to which we are parties.

Therefore, what was possible, if there had been a plebiscite, would have been the termination of that state of affairs. The termination of that state of affairs is not to argue that it did not exist. Those are two widely different propositions, and they go to the root of this matter. If that were not so, then the action of Pakistan would not be the invasion of our sovereign territory. Then the Security Council would have to wonder: What were they considering? What was Kashmir? Was it, in the terms of Mr. Rajagopalachari, a former Governor-General of India, an elder statesman, a no man's land? It could not be because it was among the 562 States that His Majesty's Government of the U.K. listed and with whom His Majesty's Government at that time had friendly treaties.

What is more, up to 15 August 1947, the Maharajah of Kashmir, according to the practice from the time of Queen Victoria, presented four Kashmir shawls to the

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sovereign of Britain. So it was an integral state and, as you will see in this matter all along, there had been great pains to maintain this position. We came here for that reason. This fundamental position has not altered.

It is not as though we were the insurrectionists in 1947. I request the Security Council members to read every assurance, every resolution, even the summaries made by Mr. Graham, where the position of India on this matter has never been given away. The Prime Minister himself, who has been dealing with this matter as Minister of External Affairs, has definitely saved our position right along and it was not an illegal saving, as you will see when I come to discuss the resolutions. That was our complaint.

The second link or charge or rebuttal is: "Yes, you had a complaint of aggression"—this is what Mr. Tsiang told us—"and they had a counter-complaint. One cancels the other." I have a great respect for Mr. Tsiang's mind and his intelligence. This has nothing to do with our recognition or non recognition of Nationalist China. Personal relations and regards must continue. I have read practically everything he said on this subject. Much of it is extremely cautious.

My Government would not be prepared to accept this statement or any argument put forward by Mr. Noel-Baker, who was my teacher and whom I probably know better than anyone else in this room, as an axiom of international law in this matter. He himself denies it, because Mr. Noel-Baker starts from one principle or from one objective. He says: "The fighting has to be stopped. Find anything that will stop the fighting." That was his attitude. Secondly, to quote Noel-Baker in this particular way is to quote the counsel for the prosecution. Though we are not the defendants in this matter, it would so look. You know, our people find it very difficult to accept that. We come here with a complaint of invasion as a complainant and all along the Security Council in its proceedings puts us into the position of a defendant. We are not prepared to accept that.

Let me return to Mr. Tsiang because what he said represents not only his view but either the expressed or unexpressed view of many others. I thought I had answered it the last time, but my capacity for expression and for conveying ideas seems to be extremely limited.

There was our complaint of invasion. The answer was: "Yes, you had a complaint of invasion. They had a counter-claim, and that counter-claim washes this out." Now anyone who is accustomed to reading documents and who examines this objectively will find that this argument does not bear examination. What did we complain about? We complained about what was virtually the invasion of Kashmir, whatever words we used. And after conciliation efforts on your part failed, we invoked Chapter VI.

What was Pakistan's reply? It was a long document of three sections, the greater part of which had nothing to do with Kashmir. It went so far as to charge us with genocide and a lot of other things. They charged us with not having proper economic relations with them, and I suppose that, if the time had been given, perhaps it might have been said, with even their survival. So the so-called counter-claim consists of a very large number of other matters.

Let us assume for argument that these other matters might have some value. Apparently its value, so far as the Security Council is concerned, is to be judged by the fact that the Council decided to put it on the shelf. The Council has not considered it since.

But whatever that may be, with regard to Kashmir the only answer is contained in paragraph 5, which I quoted to the Council before. It is in the documents. What does it say? We alleged invasion and Zafrullah Khan denied it; that is, he has said not that the invasion was right and not that it was not an invasion. They did not say: "We are going to our own territory." They did not say: "We are not going to

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Indian territory." They did not say: "We have not invaded." The answer was not any of these things, but that they were not there. Therefore, the answer was a denial. If that denial had been substantiated by facts—not by facts that we adduced but which the Commission adduced, and therefore the Security Council adduced—then that denial would have had value. But the facts are otherwise. They were found there. We found them. Our Generals went to cocktail parties with them—they were part of the same army. We soon found out they were there. General Tariq, who was Akbar Khan of the Army, had taken off his shoulder straps and had become the leader of the commandos. Of course they denied that there was an army.

At any rate, later it was admitted. What is more, at earlier stages of the invasion, starting from 10 October, during the period of Major-General Scott's diary and later up to October and November, Pakistan was guilty of invasion of our country. It committed the crime of depredation upon the sovereign territory of India, of a neighbour which was trying very hard to live on good terms with it, a neighbour which, for the price of our common independence, had admitted to the sundering of our territory. I will come to our relations in the future.

Therefore, the answer to the complaint, I say, with respect to Mr. Tsiang, is not a counter-claim that washes out the matter. It is not a plus and minus. It is a denial. If that denial is disproved by the Security Council, what is the desideratum? The aggression, nothing else. Pakistan's case was not: "We have a right to go there", but "We did not go there". An argument was adduced by the Foreign Minister at this stage in the Council on grounds, that will not, I am sorry to say, stand examination. What does he say? He said that the Government of India, not only by accepting accession but by sending troops to Kashmir—about which I read General Lockhart and Air Marshal Elmhurst's story—committed aggression. Why? Because the Maharaja of Kashmir had made a standstill agreement with them and the standstill agreement, according to them, is a kind of semi-accession which gave them sovereignty. But unfortunately for the Pakistan agrument, Sir Zaffrullah Khan, speaking before this Security Council, said that this standstill agreement was in regard to communications and post offices and what not, and he did not say that it included the rights of defence and external affairs.

But assuming it did, it was the Maharajah who concluded the standstill agreement, the Maharajah offered the same standstill agreement to two countries. What is more, what the Maharajah can give he can take away in those circumstances—not the conditions of accession. And Pakistan, having violated that standstill agreement, and the Maharajah having asked another country to come to his defence against Pakistan-aided marauders in his country—the standstill agreement was dead. First, even if there was a standstill agreement, that would give no right to sovereignty; accession is a superior document, it is a major right; it is a higher level of right which kills the lower one. Secondly, the standstill agreement has been violated by the actions of Mr. Jinnah's administration—then Governor-General and the supreme authority in Pakistan—whereby these people were being sort of starved into submission by denying them salt, oil and food, and what is more, by the 73,000 tribal raiders being collected with the invitation to loot the territory.

For all those reasons the standstill agreement which was supposed to be a panacea to prevent the bleeding, to prevent the breaking of communications—that has gone to pieces. Therefore, I submit what remains is aggression—the action of Pakistan as Sir Owen Dixon has said. You may say, "why do you quote Sir Owen Dixon when he is for you and why don't you quote him when he is against you?" I gave you the reasons.

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The only time that we have not been able to agree with Sir Owen Dixon, and it is not that the disagreements are not as bad as it has been pointed out, is when Sir Owen Dixon departs from his mandate from the Security Council and tries to create a new situation. We have suffered enough by exploratory discussions *pro tem* —not considering positions—but to be told afterwards that we committed ourselves to it. Then Sir Owen Dixon tried to put into Kashmir an administration in place of the Jammu and Kashmir Government which as you will see in the U.N.C.I.P. Resolutions was the only authority. What is more, the Commission said nobody had the right to change the *status juris* or any other status in regard to this matter. It is only then that we disagreed with Sir Owen Dixon. What is more, Sir Owen Dixon was trying to find other methods of compartmental plebiscites—of partitions—of various other ways of settling this matter. But where Sir Owen Dixon's opinion is of value is when he speaks as a jurist. He is now the Chief Justice of Australia—and they do not make chief justices of people who do not understand either municipal or international law; and that is not a presumption —in this case he is well known. What did he say? He said that Pakistan—I quoted the paragraph to you before, so I will summarize it—when it entered the Kashmir territory it committed an offence against international law—that is to say, there was a breach of our sovereignty—and that was aggression. And therefore we want that, whatever happens to us, we cannot in obedience to the Charter, out of respect for you gentlemen who represent the authority of the United Nations—not in your persons, not even in your countries—but by the mandate that rests on you—we shall not at any time surrender the right to defend, the moral right, the legal right, the political right and the military right of a country to defend its own sovereignty.

Kashmir is an integral part of India. It could cease to be so only by an act of volition by the Government of India. Therefore, when we came here that was the position. And in our desire to find settlements we were prepared to consider various propositions. But at no time was the sovereignty of the Jammu and Kashmir Government ever abandoned or permitted to be abandoned, or any phraseology used in any of these documents that permitted it. And if the Council, as it is likely to be, is overwhelmed with a large volume of this material, it will be interesting if one could find any document of the Security Council, of any authority of the United Nations, which does not reaffirm this position. We have taken pains to see that that is not departed from. That was the position even in the last meetings with Mr. Graham. We came here, and what did we agree to? We agreed to what is common ground between Pakistan and ourselves. We agreed, on the one hand, to what is our position in this matter, namely, that we believe every proposition is subject to negotiation, however difficult; every proposition is subject to conciliation methods, even if the rights of one party are beyond question. Therefore, we were prepared to discuss these matters. I can understand the legitimate feelings of satisfaction in the minds of the Security Council members when they said that here was a question on which the two parties were agreeing on a method. But let us read the phraseology of it. What is the phraseology? The Security Council records that both parties have expressed a desire to settle this matter in this way; but that does not mean that there has been no invasion, that does not mean there is no sovereignty, that does not mean there was no accession. I might be the owner of a house, but it may be that for many reasons I may prefer to give it up if certain conditions happen.

So we came here and the proceedings started. Now, at this stage we would like to make it quite clear that it is not the contention of the Government of India that the Security Council could be a sort of Rip Van Winkle and forget the nine years that

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have passed. It cannot forget it in terms of its own resolutions; nor can it forget it in terms of other events. So we are not saying, "Forget all this and go back to what it was". That is not our position. Our position is that it remains exactly what it was; that the issue before this Council is the question of aggression and acting up to the principles of the Charter in order to liquidate the aggression. When that is liquidated one method or another may be tried. Therefore, the invasion and its consequences, its consequences to the peoples of Kashmir—and in our humble submission, more particularly to the peoples of Kashmir in those unfortunate areas that are occupied by a Government that has no free elections, where economic conditions are such that the people are in a very bad way—are exemplified by the statement of the leaders of this Azad movement in their Memorandum to the Constituent Assembly that they cannot appoint even a peon, meaning a messenger or a porter of some kind. They have no such powers at all. The aggression concerns them, it concerns us, it concerns what is called the sub-continent. I believe it concerns the whole area that lies in the lap of the Indian Ocean; and it may concern the world. That is why this Kashmir question is so important. That is why we are prepared to go on trying, and we have kept on trying.

Sir Firoz Khan Noon reminded me that I could not just rub out all that has happened since the last meeting of the Security Council in 1952 and now. I have made no such attempt. Therefore, it comes to this question: the gravamen of the charge particularly if you read the press of the United Kingdom, is that my country which is in the closest fraternal relations with them which has a great regard for their traditions and their powers even when they were ruling us, is about to or has committed an act of international brigandage; that we are about to commit or have committed violations of our international obligations. And I say most solemnly not only on behalf of my delegation in this meeting, but on behalf of my Government and my people that we have no intention and we shall at no time violate an international obligation. If we do, we deserve to stand convicted. But the Security Council has an equal responsibility to see that there are international obligations and to examine their content. Therefore, let me take the first step. The issue is said to be plebiscite—that is what we are talking about--that is before the Security Council. In fact, that is not the real issue, because we are now talking in a vacuum.

As the Commission said, situations change but resolutions remain unchanged. If I had said that, members of the Security Council would tell me privately that I was being agressive. I am temperamentally not agressive as everybody knows. It is the Commission that said: "Situations change; resolutions do not change."

Now let us take this question of the plebiscite. I submit that the origin and the family tree of this plebiscite arises from our desire that we do not take this territory of Kashmir, originally ruled by a rather wrong kind of Maharajah, with whom we joined issue, where there was a considerable popular movement, where our national leaders were threatened, and we wanted to settle that. Then Lord Mountbatten wrote to the Maharajah. This is not part of the instrument of accession, as I told you last time. The instrument of accession is complete by the offer and the acceptance. It was a letter that went separately. Therefore, it is an expression of a wish.

That is one aspect of the plebiscite question, but the Foreign Minister of Pakistan has referred, as he is entitled to do, to various others statements made by my Prime Minister to his then Prime Minister in regard to various solutions of the problem.

Here I want to submit certain propositions of international behaviour, which apply equally to municipal behaviour. If an offer is made and it is rejected, that offer is no

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longer alive. If an offer is made and it is accepted, it becomes an engagement. It would be impossible to function in any other way, since there would be so many commitments floating about in the air.

It is quite true that Lord Mountbatten did ask Mr. Jinnah, the Governor-General, "Why not arrange this by a plebiscite and do it through the United Nations" and this, that and the other. His answer was not an acceptance but a counter-offer: "Let us two govern this country. Let us suppress the raiders"; and this, that and the other. We rejected that. So that phase of it was over. There were so many other phases of it. The Foreign Minister read out the text of a document, which was authentic as far as it went, but it looks different if you read the whole text. It was a telegram from Pandit Jawaharlal Nehru to Mr. Liaquat Ali Khan, the Prime Minister of Pakistan, in which he said: "This is an offer we make to the people of Kashmir, to Pakistan and the world." We do not deny this. But they did not accept it at that time. What is more, not only did they not accept it by words; they did not accept it by conduct, because the other side of the offer was that there should be a withdrawal of the aggression, that there should be a stopping of force and violence and hatred and things of that kind.

So we come to the date of 22 December, 1947. I would refer to the letter of 22 December 1947 from my Prime Minister to the then Prime Minister of Pakistan. I do not propose to read the whole of it, but I beg the members of the Security Council to read the whole of it because it was written by my Prime Minister from the anguish of his heart when all the suffering was going on in our country, with the knowledge that only a few days previously this man had been his own Finance Minister, and in a country that only a few days previously had been part of our common homeland. All the paragraphs hang together, but I do not wish to shelter myself under that. However, on 22 December we terminated this position.

It is common knowledge that even a treaty can be denounced; much more so an engagement; and even more so an offer. So on 22 December my Prime Minister said this:

> Since protests have failed to bear fruit, the Government of India now formally ask the Government of Pakistan to deny to the raiders .....(Krishna Menon: Then are set out, under numbers 1, 2 and 3, "access", "military supplies" and other kinds of assistance.) The Government of India have always desired and still earnestly desire to live on terms of friendship with Pakistan. (Krishna Menon: That is the only subsisting engagement that, in spite of everything that happens, will subsist in our hearts.) It is their sincere hope that the request that we have now formally made will be acceded to promptly.....(Krishna Menon: Therefore, this is in the nature not of an ultimatum but of a termination of the previous relationship. That is what happens between countries. They say, "If you do not do this, we will do something else.") Failing such a response, they will be compelled to take such action, consistent with the provisions of the United Nations Charter as they may consider necessary to protect their interests and to discharge their obligations to the Government and the people of Kashmir.

I submit that this letter would entitle the Government of India, in accordance with international law and practice and the observance of the Charter, to take any step, including the invasion of Pakistan, for the defence of that territory.

Therefore, on 22 December we concluded that that chapter was ended, the chapter dealing with what Mountbatten said and what Campbell-Johnson said and what someone else said and what Mr. Jinnah said: "We will call them off", or whatever it was. All that was over. We came to a new chapter, and that chapter is the complaint before the Security Council.

I have dealt with the complaint as best I can, and I have said that the only answer has been a denial. That denial has been subsequently disproved, and therefore the complaint exists. It arises from this, that any engagements by which the Government of India is bound are only the engagements to which it is a party since that per-

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iod apart from the general obligations under international law. I want to repeat that. Apart from the general obligations under the Charter, the only specific engagements are the engagements arising from the reference to the Security Council, and I ask you to bear with me on an examination of this.

A number of resolutions have been passed by the Security Council, and none of these is a resolution of a character which may be called international engagements except the two to which my distinguished colleague has referred. The remainder are by way of adjuration and, to the extent that they are under Chapter VI, they are not binding upon the people concerned, because the reference was under Chapter VI. They are by way of recommendation..

What is the obligatory nature of actions taken under Chapter VI of the Charter? This goes back to San Francisco. In San Francisco this matter was discussed at great length, and the United States took a very prominent part. The Belgian delegation at that time wanted to place this matter beyond doubt and therefore moved amendments to these provisions. The Conference, however, agreed that an important stage had been reached at Article 37. This Article states that the Security Council may take up disputes where the parties have failed to reach a settlement by the other means indicated. It goes on to state:

> If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

The Council may recommend terms of settlement, but it does not have the power to compel the parties to accept the terms. It has the power to enforce its decisions only after it is determined under the provisions of Chapter VII that a threat to the peace exists.

I would not have brought this up but for the fact that my distinguished colleague, not only in this forum but before his countrymen and mine, has said that we were defying the decisions of the Security Council. The only decisions the Security Council can make are the decisions under Chapter VII.

If you will refer to the "Report to the President of the United States" on the result of the San Francisco Conference from the Chairman of the United States delegation, the Secretary of State at that time—I think it was Mr. Stettinius Jr. on 26 June 1945. It is a United States document—you will find that on pages 85 and 86 the legal position is clearly set out as regards the nature of the recommendations and the position of the Security Council in terms of the Charter.

Therefore, recommendations are of that character. And if it is said that the Council has passed this resolution and that it has that moral force, the Government of India will go out of its way to pay every attention to it. But when, as in the case of the resolution of 21 April 1948, it is not possible for us to accept it, the position is rather different.

We therefore come to the international engagement—with the observation that my Government stands by every international commitment it has made. There is no Member of the United Nations to which we yield in our desire to carry out the spirit and the letter of the Charter. But we are not to be placed in the position where the attempts that we make for exploration, or to find ways and means, without arguing every question every time, are turned against us—even on this occasion, some people have wondered why my Government has instructed me that the whole of the case should be put at the first session, as far as possible—and I crave the indulgence of everyone for repeating this, because, when we have not, we have suffered in the bargain.

Therefore, the only international engagements that exist are two resolutions—the

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UNCIP resolutions of 13 August 1948 and 5 January 1949. My delegation has arranged for copies of these, which are official documents, to be in front of you for ready reference, since these are the key documents on which the honour of my country is challenged, the position of India in relation to the Charter has to be examined. What is more, I say with all the seriousness and the gravity of which I am capable that, when Member Governments give consideration to this, these matters have to be taken into account. These are the engagements. If they were of a formal character, they might be treaties, but, at any rate, they are the engagements we have entered into—the resolutions of 13 August 1948 and 5 January 1949.

The resolution of 5 January 1949 is of a supplementary and subsidiary character. The representative of Pakistan has asked why I call it "subsidiary". I looked up the Oxford Dictionary, and I find that "supplementary" and "subsidiary" mean much the same thing. "Subsidiary" means "serving to assist" or being "auxiliary". "Supplementary" means "added to supply deficiencies, especially a fuller treatment of a special subject".

The document of 5 January 1949 has no independent existence; it has to be fitted into the framework of the first document.

I have been asked by my Government to invite the Security Council to examine these documents, because it is on the basis of these that the Council, when the time comes, will have to see how this question stands, what the obligations are, what further steps can be taken or not taken, and what will be the consequences. I therefore crave the indulgence of the Council and ask representatives to refer to these documents, which we have placed before them for purposes of reference. These resolutions, particularly the resolution of 13 August 1948, are the result of laborious negotiation. Every word is a matter of give and take and has taken perhaps a whole conference.

We accepted this resolution of 13 August 1948; Pakistan rejected it, in the first instance. We accepted the resolution of 5th January, 1949 on 23rd December, 1948. Pakistan accepted it on 25 December. Our acceptance was prior. With regard to the resolution of 13 August 1948, the Government of Pakistan made so many conditions in regard to its acceptance that the Commission said that those conditions really altered the character of the whole thing.

I invite the Council to examine the official document as it appears in the Official Records of the Security Council, Special Supplement No. 7, beginning on page 21. This is in the Third Interim Report of the United Nations Commission for India and Pakistan. At the risk of taxing the patience of the Council, it is my duty, which my Government has instructed me to perform, to deal with every word of this in so far as pertinent. The first sentence reads:

> The United Nations Commission for India and Pakistan,
>
> Having given careful consideration to the points of view expressed by the representatives of India and Pakistan regarding the situation in the State of Jammu and Kashmir....

I invite attention to the words "regarding the situation". It does not speak of a "dispute" here, but of a "situation"—this is what we accepted—"regarding the situation" caused by the invasion by Pakistan. Invasion of what? Not of no-man's land, not of a divided territory—but of the State of Jammu and Kashmir—which is an assertion of the whole of its entity.

These are the key words in the first paragraph. First of all, we are dealing with a "situation", as my predecessor submitted to this Council. We are engaged in no territorial dispute; we are making a complaint of a "situation" in the State of Jammu and Kashmir. Therefore, there are not two States, there are not two authorities—and, as you will see later on, this Government is sovereign.

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The next paragraph reads: "Being of the opinion that the prompt cessation of hostilities..." Those words are a key to the state of mind of the Security Council and the parties at that time—"the prompt cessation of hostilities"— because we brought the complaint here in order to prevent the fire from spreading. And, from our point of view, it was telling the Security Council that we would be forced into a position, which we did not want to take.

The next point reads: "and the correction of conditions the continuance of which is likely to endanger international peace and security". That is the remedy sought. Those conditions are the invasion by the other side.

It then goes on: ".....to assist the Governments of India and Pakistan.. ." There is no reference here to any other authority —to Azad Kashmir or anybody else. It speaks of assisting the "Governments of India and Pakistan", who are the two combatant high commands. Here it is not a question of two States. It would be two people engaged in a conflict, as we will see later when the agreement is signed, the two high commands. ".....to assist the Governments of India and Pakistan in effecting a final settlement of the situation". That is the second paragraph.

There is nothing in the next paragraph, because it simply says that the proposal will be submitted simultaneously to the Governments of India and Pakistan. Although it was submitted simultaneously, it was accepted by us and rejected by them.

That is the preamble. The pattern of the body of the resolution is that it is in three parts, and each part has sub-parts. The first part consists of five sections—A, B, C, D, and E. I invite the Council's attention to them. Part I is headed "Cease-fire order", and section A reads: "The Government of India and Pakistan..... ." There is no recognition here of the Azad Government insurgent forces or anything else.

When the Commission went to Karachi, Sir Zafrullah Khan, who was then Foreign Minister, informed the Commission that the Pakistan Army was there. We all knew it—but only then was it admitted. Section A reads:

> The Governments of India and Pakistan agree that their respective High Commands will issue separately and simultaneously a cease-fire order to apply to all forces under control in the State of Jammu and Kashmir as of the earliest practicable date or dates to be mutually agreed upon.....

There is nothing controversial in that.

Then we come to Section B, a very important section on which the present situation so much turns and we submit with a great degree of sadness that the Security Council has not hitherto given it sufficient attention. Our Prime Minister has expressed this fully in many places and we must say it again. Section B reads as follows:

> The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the force under their control in the State of Jammu and Kashmir.

It is our submission today that not only has Pakistan not carried out Part II of the agreement but it has also violated the cease-fire agreement, and we propose to prove this. Section B continues:

> For the purpose of these proposals 'forces under their control' shall be considered (Krishna Menon: and the next phrase is very important) to include all forces, organized and unorganized, fighting or participating in hostilities on their respective sides.

Now this is the kind of definition that you will find is consonant, for example, with the description in the Geneva Convention on Civil War. Here it is: There is an undertaking by the two High Commands that they will refrain from taking any measures that might augment the military potential; and we contend that ever since the conclusion of these two agreements Pakistan has consistently, repeatedly, continuously and without interruptions violated Section B of

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the cease-fire order. I thought this would be the best place for me to elaborate, but my advisers tell me that it is better for me to deal with the resolution first and to come back to this argument afterwards. Section C reads:

> The Commanders-in-Chief of the forces of India and Pakistan shall promptly confer regarding any necessary local changes in present dispositions which may facilitate the cease-fire.

Section D reads:

> In its discretion and as the Commission may find practicable, the Commission will appoint military observers who under the authority of the Commission and with the co-operation of both Commands will supervise the observance of the cease-fire order.

Nothing turns on this paragraph. Military observers have been appointed and they constantly report; and as I mentioned the other day, if there was any concentration of Indian troops, the military observers would have reported to the Secretary-General.

Now we come to a key paragraph in Part I, that is, Section E:

> The Government of India and the Government of Pakistan agree to appeal to their respective peoples.....

The first was a negative action of desisting from doing something, but here we have agreed to appeal to our respective peoples "to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations". As this argument develops you will find a statement by the Government of India that the one condition that is necessary for the settlement of this problem or even for negotiation, is an improved atmosphere. It is impossible to negotiate effectively, to come to an agreement in the context of a campaign of war propaganda that goes on against us and a programme of religious hatred. We will at no time agree to a State being founded on a religious foundation. We want our people to be religious, to have freedom of religion and freedom of worship, but this is a matter between them and their conscience, or the Supreme Being, or whatever you call it. We are not prepared to consider secular matters on any other basis.

Section E states:

> The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

It is our submission that from that day—and I will read some of the propaganda—since the Security Council passed the resolution, it is for the Security Council to consider what relation the stepping-up of the propaganda has to the resolution passed; it is not for me to say, because I am invited here under Article 32 to state my case. We say that Section E stands violated. So far as the cease-fire order is concerned, Sections B and E of Part I stand violated. I will tell the Security Council what the effect of that violation is on the so-called international engagement.

Now we come to Part II. This is a Truce Agreement, and the first paragraph reads as follows:

> Simultaneously with the acceptance of the proposal for the immediate cessation of hostilities as outlined in Part I, both Governments accept the following principles (Krishna Menon: They do not accept only the provisions) as a basis for the formulation of a truce agreement, the details of which shall be worked out in discussion between their Representatives and the Commission.

Let us look at Section A of the Truce Agreement. The first part of Section A is a key paragraph to which so little attention has been paid in the years that have passed:

> As the presence of troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

What is the significance of this? First of all, as I said, there is something you can-

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not deny. But Pakistan denies that there are troops there and, even taking that date in May—which we do not accept in fact—it was six months afterwards when the Security Council found out—when they went to Karachi and not before—that the troops of Pakistan had entered.

Therefore, two things emerge: first, that a material change has taken place in the situation since we came here, because the Security Council was informed to the contrary. I submit, without desiring to use any strong words, that this was the first instance, the basic instance, in which the Security Council was kept in the dark and the facts were concealed from it. Although they were first concealed from us, we came to know about them, and that is the reason for all the emotional letters from the heart written by my Prime Minister to the other Prime Minister. Now a material change is the introduction of the Pakistan Army, the introduction of the army to a country which it had previously said it had not entered.

Now the Commission says this constitutes a material change. This is a key factor in the whole situation and unless it is taken into account this problem cannot be understood. What has the Pakistan Government to do? "....the Government of Pakistan agrees to withdraw its troops from that State". I would like you to listen to those words. In the first paragraph of Section A of Part II what is agreed to is an unconditional withdrawal by Pakistan of its army from the State of Jammu and Kashmir. So all this palaver afterwards about synchronizations and about a balance of forces and so on, is not what is intended by this clause. The duty of withdrawal was unconditional and therefore no part of this agreement can even be considered until Pakistan has vacated the aggression. And if I may submit—and we as a Member State are entitled to submit under the terms of the Charter—the duty of the Security Council in terms of the Charter is the vacation of this aggression. It is laid down that "Pakistan agrees to withdraw its troops from that State".

Now let us look at paragraph 2 of Section A, which reads:

> The Government of Pakistan (Krishna Menon: That is the first step, there will be more) will use its best endeavour to secure the withdrawal from the State of Jammu and Kashmir of tribesmen and Pakistan nationals not normally resident therein who have entered the State for the purpose of fighting.

That paragraph 2 has not been carried out and it continues not to be carried out and that action is one of the subsisting problems of the situation as you will see when we go into detail. Paragraph 3 reads:

> Pending a final solution, the territory evacuated (Krishna Menon: this is again a very important part) by the Pakistan troops (Krishna Menon: that is to say, the territory that they are now occupying, as I told you when I spoke about the Constituent Assembly and as I shall point out later on, that territory was supposed to be evacuated by them altogether. They had to go away, they were invaders, they have no right there. The only people who could stay were the local authorities.)....the territory evacuated by the Pakistan troops will be administered by the local authorities under the surveillance of the Commission.

Paragraph 3 therefore makes it clear beyond all doubt that the State of Pakistan had no business whatsoever in the territory of Jammu and Kashmir and that the duty which they failed to discharge was to remove themselves fully and completely. It is no answer for the Foreign Minister of Pakistan to turn round and ask me, "What does Mr. Krishna Menon want, to be handed Kashmir on a silver platter?"

We come now to Section B, paragraph 1, which reads as follows:

> When (Krishna Menon: And the word "when" in English means just what it says) the Commission shall have notified (Krishna Menon: that is to say, the following action must be after the notification) the Government of India (Krishna Menon: not the Government of Pakistan, because the Government of India is the severeign authority in this matter that the tribesmen and Pakistan natoinals referred to in Part II, A, 2 hereof have withdrawn...

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I invite the attention of the Council to the word "when"—nothing can happen until this event takes place. The Commission have to notify about what? That the tribesmen have withdrawn from the present occupied territory, that they have completely evacuated. The paragraph reads: "When the Commission shall have notified the Government of India that the tribesmen and Pakistan nationals referred to in part II, A, 2 hereof have withdrawn, thereby terminating the situation..."—the situation which was being complained of—"... which was represented by the Government of India to the Security Council as having occasioned the presence of Indian forces in the State of Jammu and Kashmir...". That is to say, the Commission has to report that they have withdrawn, thereby terminating the situation which made the presence of our troops in Kashmir necessary. Until that situation is terminated, nothing can happen; ".. and further, that the Pakistan forces are being withdrawn from the State of Jammu and Kashmir, the Government of India agrees to begin to withdraw the bulk of its forces from that State in stages to be agreed upon with the Commission."

Some of the things which the Council has heard are in violation of this clause. When the Commission notifies us that the tribesmen and Pakistan nationals have been withdrawn, then we are to begin to withdraw the bulk of our forces, and the stages of that have to be agreed upon with the Commission. It has nothing to do with Pakistan; it is with the Commission. We informed the Commission that we would tell the Commission in confidence about our troop movements, but that we were not prepared to tell Pakistan about them. Pakistan insisted that they should be told, and that is one of the reasons why the negotiations broke down.

Section B, paragraph 2 reads as follows:

> Pending the acceptance of the conditions for a final settlement of the situation..(Krishna Menon: And I again invite the attention of the Council to the word "situation") ..in the State of Jammu and Kashmir, the Indian Government will maintain within the lines existing at the moment of the cease-fire those forces of its army which in agreement with the Commission are considered necessary to assist local authorities in the observance of law and order. The Commission will have observers stationed where it deems necessary.

Here we have one of the most difficult clauses in the sense that its meaning has not been fully appreciated by the Security Council in later considerations. Now what does this paragraph state? "Pending the acceptance of the conditions ..." —while the situation remains, the forces of the Indian Army, with the agreement of the Commission, will be maintained as necessary to assist the local authorities. Now the key words are "local authorities". "Local authorities" is a phrase which is applied only to administration in the Pakistan occupied area; in the other parts it is the Government of Jammu and Kashmir. According to this, therefore, the Indian Army is to assist, in the maintenance of law and order, the local authorities on what is the so-called Azad side. Therefore, at this stage there was no question of anything but evacuating the aggression.

This will become clear if the Security Council will read the document dated 20 August, which is a letter from the Prime Minister to the Commission about the Commission's assurances. I should like to ask whether the Security Council would say that assurances given on behalf of the Commission to the Head of a Government, assurances which are public knowledge and which are published, do not have the same value as all the engagements.

Therefore, paragraph 2 gives the Government of India the right and the duty to assist in the maintenance of law and order. When the Chairman was asked what was ment of India the right and the duty to external defence of the State of Jammu and Kashmir, he stated that the two could not be separated. The position, therefore, was

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the one which Mr. Gopalaswami Ayyangar put to this Council: the Pakistan forces withdraw and the Indian Army occupies the external frontiers of Kashmir.

When we raise these questions people think that we are splitting hairs. Might I digress for a moment to state that if this case was being argued before a legal tribunal it would probably take three or four weeks' time. However, the Members of the Council are so busy that we have to go through this quickly.

The term "local authorities" is used throughout the whole of these documents only as applied to the authorities that are not *de jure*. Paragraph 2 places upon the Government of India both the duty and the right to look after law and order in the occupied area. In the light of that clause, I ask whether the whole stand of the Pakistan Government is justified. Not at all.

Section B, paragraph 3 reads as follows:

> The Government of India will undertake to ensure that the Government of the State of Jammu and Kashmir will take all measures within their power to make it publicly known that peace, law and order will be safeguard and that all human and political rights will be guaranteed.

This we have done, and we did it not only at that time—it is in that spirit that the Constitution came into being. Before that time there was no Constitution and there was no popular Government. What is more, very soon afterwards the dynasty was displaced and the son of the older Maharajah, who was an autocratic ruler, became elected Head of State. We proceeded in pursuance of Part II, section B.

We come now to section C, which has filled many minds but which is not necessarily the key part of the picture. Section C, paragraph 1, reads as follows:

> Upon signature, the full text of the truce agreement or a communique containing the principles thereof as agreed upon.....will be made public.

But I am sorry to say that this opportunity has not arisen because no truce agreement has been signed. Part I has been violated in two main sections. The ceasefire agreement has been violated and Part II has not been implemented. Every necessary condition has been breached. This takes us now to Part III, which refers to the plebiscite, and which reads as follows: "The Government of India and the Government of Pakistan reaffirm their wish....."—it does not say "their pledge"—"....that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end...." First, as I have said, it is an affirmation of our common wish. Secondly, it states that it should be determined in accordance with the will of the people. However, this wish concerning the future status of the State of Jammu and Kashmir in Part III is not concerned with the present status. The present status is a status under accession. This concerns only the future status. A distinction must be made between an accession as *pro tem* and an accession to be terminated on the transpiration of another event. Those are two different matters, both in law and in fact and in all the political implications of this question. Therefore,

> the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end...

Then follows that very nice English expression "upon acceptance"; "upon acceptance" means after acceptance; it not only denotes a sequence, but a sequence of a particular character—

> upon acceptance of the truce agreement...

Then what do they do? After it is accepted—

> both Governments agree to enter into consultation...

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They do not say, "Both Governments go and take a plebiscite", but "both Governments agree to enter into consultations with the Commission"—and for what purpose?

to determine fair and equitable conditions whereby such free expression will be assured.

When I develop this point the Council will, I hope, be convinced not only that there have never been these fair conditions but that under conditions of psychological warfare and the threats uttered even in this Council, and the massing of personnel on the other side and all the conditions which I shall refer to, these fair and equitable conditions cannot be assured. There can be no question of an election—certainly not under our constitution. And when I say "our constitution" I want to make this further observation, because you gentlemen here, representing other States, can have only a friendly interest in our constitution. It is only we who owe allegiance to it. My friends from the United Kingdom and Australia may have more than a friendly interest in it, because it has family resemblances, and we have a debt of gratitude and a sense of heritage in that respect. But these particular provisions reflect the canons of international behaviour. They are not just municipal law. They are municipal law which corresponds to international conduct.

That is Part III, and I will read it when I deal with it in detail. It is Part III, therefore, that refers to ascertaining the will of the people. The two Governments are to confer about fair and equitable conditions after Part II and Part I have been implemented—after the signature of the truce agreements.

Now what is the present position? Part II is violated. This is not an old violation; it stands continually violated. The present position is one of violation. Therefore the Pakistan Government is, in this respect, in sin. It was original sin, but it is continuous so far as Part I is concerned, and Part II has not taken place. And the Council heard what Sir Owen Dixon said—that, apart from all other considerations under the resolutions, the agreement of the Commission was that none of these things could take place without the agreement of the Government of India.

Before I go on to the resolution of 5 January 1949, I want to repeat what I said a while ago. It is not as though the Government of India is now trying to read meaning into these words. It is not what the lawyer calls "the construction of a document"—some old lady writes a will; there is a contest about it; clever lawyers try to read as much as they can into it. That is not the position. This document has taken a great deal of brain work. It has meant so much coming and going; so much saying "yes" and "no"; so much break-down, and so on and so forth. Each of these words has been put in there deliberately. Not only have they to be read in their obvious and legal meaning—that is to say, there is a construction of all documents according to law—but they have to be read against the back-ground of all the circumstances. The Security Council, in spite of the fact that its members are heavily engaged, cannot ignore the background conditions which are recorded in so many volumes. These are far too serious matters for it to be said, "There was talk of a plebiscite; well, if we have not a plebiscite, then this, that and the other". Therefore, the whole of this thing has to be read.

That brings me to 5 January resolution. Pakistan refused to accept the resolution of 13 August 1948. At that time the position which was stated by Sir Zafrullah Khan was that this was for the purpose of a cease-fire, and that there should be no cease-fire until there were political settlements. He was holding it up in order to obtain other conditions. Then I believe the Pakistan Army suffered severe reverses. I am asked to quote to you what the Prime Minister said in Allahabad:

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We stopped a victorious army. We could have settled conclusions. We were stronger at that time, and, God forbid, if our country were invaded we should still render a good account of ourselves. In obedience to the Charter we restrained the action of our military forces. Instead of obtaining what we could have obtained by the use of force we continued to negotiate, having accepted it.

The Commission returned to Paris, had further talks with the Pakistan Government—and the military situation had probably some effect on the matter, as a matter of opinion— and on 11 December it elaborated further proposals, partly to meet the Pakistan position that there must be some talk about what was likely to happen after the truce, what was the nature of things, and so on and so forth. Therefore, the Commission spent its time in working out a plan which could be useful if we ever came to Part III.

The resolution of 5 January, which covers so many pages, has, from India's point of view, an adverse psychological effect upon those who read it. There are paragraphs about a plebiscite, but none of it is worth the paper it is written on unless Part I and Part II are agreed upon and, in the case of Part III, we confer and agree on fair terms.

Therefore the whole of the resolution of 5 January, which I shall read to the Council in a moment, cannot be read, either as to its individual paragraphs or as to its entirety, except in this context. And it is common ground that these two resolutions stand together, because it says "supplementary". It is supplementary and subsidiary, because it adds to the other. It enables the other to function if the occasion came. What does it say? It says:

The question of the accession of the State of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite.

That is paragraph 1. Paragraph 2 says:

"A plebiscite will be held when it shall be found by the Commission"—and I ask all of you who are scholars of English to tell me what this means. "When it shall be found by the Commission", in plain English, is a condition precedent. If it is not found by the Commission, then, no plebiscite.

A plebiscits will be held when it shall be found by the Commission that the cease-fire and truce arrangements set forth in parts I and II of the Commission's resolution of 13 August 1948 have been carried out and arrangements for the plebiscite have been completed.

We can leave the second part because arrangements for the plebiscite did not follow. So it is only if I and II are completed, and I invite the Council's attention to the number of times mention is made, in paragraph after paragraph, of this question of the condition precedent, of the sequence, of something happening after something else. And then again it is an investigation; it is the applying of minds to a plan in order to find fair means of doing this.

That is paragraph 2. As I said, neither Part I nor Part II has been completed. Then we come to paragraph 3 (a), which says:

The Secretary-General of the United Nations will, in agreement with the Commission, nominate a Plebiscite Administrator who shall be a personality of high international standing and commanding general confidence. He will be formally appointed (Krishna Menon: And this again is a very important sentence) to office by the Government of Jammu and Kashmir.

Why? Because the Government of Jammu and Kashmir is a sovereign Government. It alone has authority over the territory. And this is what Sir Owen Dixon—as he was entitled to do in his mediatory function, although he was *ultra vires* of this agreement—tried to shift: "he will be formally appointed to office by the Government of Jammu and Kashmir."

It was perhaps this sentence in the resolution—namely, that the Plebiscite Administrator "will be formally appointed to office by the Government of Jammu and Kash-

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mir"—that Mr. Menzies had in mind; he did not see any reason at all why the Government should be displaced.

Paragraph 3 (b) of the resolution states:

The Plebiscite Administrator shall derive from the State of Jammu and Kashmir the powers he considers necessary for organizing and conducting the plebiscite and for ensuring the freedom and impartiality of the plebiscite.

Nothing can be nearer to the classical definition of sovereignty than this phrase "shall derive from the State of Jammu and Kashmir the powers. . .". Under the general, classical definition, the sovereign is the person from whom all powers flow. I do not say that there can be no modifications of that definition, but I do say that it is the classical definition.

Paragraph 3 (c) reads:

The Plebiscite Administrator shall have authority to appoint such staff of assistants and observers as he may require.

This is an administrative provision.

Paragraph 4(a) states:

After implementation of Parts I and II of the Commission's resolution of 13 August 1948.—

and here again, we find the words "after implementation"; it is not I who am repeating these phrases; it is the resolution itself which, time and again, uses such words as "when it shall be found", and so forth—

and when the Commission is satisfied that peaceful conditions have been restored in the State the Commission and the Plebiscite Administrator will determine, in consultation—

With whom?

with the Government of India the final disposal of Indian and State armed forces, such disposal to be with due regard to the security of the State and the freedom of the plebiscite.

In this connexion, I should like to make one observation on the use of this word "disposal". As members of the Council know, the word "disposal" has been used with regard to the Government of India forces in the sense of disposition, not in the sense of throwing away.

Paragraph 4 (a) of the resolution, therefore, also contains the kind of phrase to which I have been referring—namely, "when ....peaceful conditions have been restored in the State." Now, these peaceful conditions have not been restored, because part of the country is under occupation. There is neither law nor order nor assembly nor constitution in that part of the country. Furthermore, the phrase in paragraph 4(a) of the resolution to the effect that the Plebiscite Administrator will determine "in consultation with the Government of India" the final disposal of Indian and State armed forces again establishes the fact that Pakistan has no part whatsoever with regard to these matters. Pakistan will be the beneficiary if the plebiscite goes a certain way. Under the arrangements to be made by the Plebiscite Administrator, Pakistan will not be concerned in such matters as watching, witnessing, supervising and so forth—but we have not come to that stage.

The resolution then goes on to set down some administrative provisions, which I shall not deal with in detail.

The next important paragraph in the resolution is paragraph 7; in fact, from our point of view it has very great importance. I am sure that everyone who is concerned with freedom of elections will wish to pay attention to this paragraph. It reads:

All authorities within the State of Jammu and Kashmir will undertake to ensure, in collaboration with the Plebiscite Administrator, that:

(a) There is no threat, coercion or intimidation, bribery or other undue influence on the voters in the plebiscite;

(b) No restrictions are placed on legitimate political activity throughout the State. All subjects of the State, regardless of creed, caste, or party, shall be safe and free in expressing their views and in voting on the question of the accession of the State to India or Pakistan. There shall be freedom of travel in the State, including

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freedom of lawful entry and exit.....

The importance of paragraph 7(b) is that it contains the assurance that there shall be no religious propaganda; that is to say, there shall be no incidents similar to the one in the North-West Frontier Province, where a mullah sat down, showed the Koran, and said, "Every vote that you cast against Pakistan is a vote against the Koran." Of course, in a sense that was true, because Pakistan is an Islamic State, and its constitution is based upon the Koran. But that does not mean that the paragraph of the resolution which I have just quoted does not preclude religious propaganda in Kashmir.

Perhaps this would be a good time to deal with this matter of religion influencing elections. I invite representatives' attention to the "Manual of Election Laws of India", which they may find in the Library of the United Nations. This is not a manual which we have devised for the purpose of dealing with Kashmir. Although it is a municipal document, it conforms to the general practices and standards of elections throughout the world. In this Manual, we read that the following actions are prohibited in connexion with any elections in India:

...undue influence—that is to say, any direct or indirect interference or attempt to interfere on the part of a candidate or his agent, or of any other person, with the connivance of the candidate or his agent, with the free exercise of any electoral right.....

It is also stated that there shall be no inducement of, or attempt to induce, an elector to believe that he or any person in whom he is interested will become or will be rendered an object of Divine displeasure or spiritual censure. It is also stated that there shall be no:

systematic appeal to vote or refrain from voting on the grounds of caste, race, community or religion or appeals to religious and national symbols such as the national flag or the national emblem, for the furtherance of the prospects of a candidate's election.

I freely admit that the law of India is not binding on the rest of the world. But I do say that what I have just quoted represents the canons of justice. Furthermore, this is not only what we have understood in our private, subjective minds, but is also part of the assurances given in the Commission's resolution.

I may be asked: How do you know that this is going to happen? But I shall come to that when I deal with the circumstances existing at the present time. I would only say now that, when religious passions are inflamed, this leads to unrest and to an inability to exercise the franchise freely—and in such circumstances, there cannot be a plebiscite.

I should now like to quote from an *aide-memoire* which was accepted by the Commission. This *aide-memoire* gives an account of a meeting between Mr. Lozano, the Chairman of the Commission, and the Prime Minister of India. In it, we read the following comment by the Prime Minister on paragraph 7(b) of the Commission's resolution of 5 January 1949:

India is a secular State. The United Nations also is a secular Organization. Pakistan aims at being a theocratic State. An appeal to religious fanaticism could not be regarded as legitimate political activity. Dr. Lozano agreed that any political activity which might tend to disturb law and order could not be regarded as legitimate. The same test would apply to freedom of press and speech. (S/PV.762/Add. 1, Annex 4, page 22).

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That is not a private note recorded by the Prime Minister; it is an agreed summary of the conversations.

These are the two documents on which everything turns. These are our international engagements.

I will read out what is contained in document 5, and I hope the members of the Security Council will read this document at their leisure, although it is a long document, because it contains all the assurances given, and these are legal matters, they are matters which have the force of the solemn authority of the United Nations behind them. The

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document in Annex. No. 5 of S/PV 762/, Add.1, states:

This note sets out the following assurances given by the United Nations Commission for India and Pakistan to India before India's acceptance of the resolutions of 13 August, 1948 and 5 January, 1949:

(i) Responsibility for the security of the State rests with India.

That is a sovereign right. The defence of our external frontiers is India's responsibility and, therefore, there is no question of the relations between the constituent State and the Union or any impairment of accession, so far as the present is concerned, whatever may happen in the future. The document continues:

(ii) The sovereignty of Jammu and Kashmir Government over the entire territory of the State shall not be brought into question.

Please mark these words. It is very carefully stated that the sovereignty of the Jammu and Kashmir Government—so there can be no argument afterwards that it is another sovereign State—"over the entire territory of the State shall not be brought into question". The document continues:

(iii) Plebiscite proposals shall not be binding upon India if Pakistan does not implement Parts I and II of the resolution of 13 August 1948.

(iv) There shall be no recognition of the so-called Azad Kashmir Government.

(v) The territory occupied by Pakistan shall not be consolidated.

Now it is a part of Pakistan, according to the Constitution of Pakistan.

(vi) Reversion of the administration of the evacuated areas in the north to the Government of Jammu and Kashmir and its defence to the Government of India, and to maintain garrisons for preventing the incursion of tribesmen and to guard the main trade routes.

I ask any member of the Security Council: What does this mean, that India is to maintain garrisons to guard the trade routes which lie on the external frontiers of Kashmir? The cease-fire line, as the Commission has said, is not a political boundary. The whole of the State remains. The document continues:

(vii) Azad Kashmir forces shall be disbanded and disarmed.

The phrase actually was large-scale disbandment and disarmament, but the Commission said that if you disband them, then you must disarm them.

(viii) Exclusion of Pakistan from all affairs of Jammu and Kashmir.

On page 2 of Annex. 5 it is stated:

At the meeting of members of the Commission with the Prime Minister of India in New Delhi on 17 August 1948, (Krishna Menon: Three or four days after signature) the Prime Minister, with reference to Part II, Section B, paragraph 2 of the 13 August 1948 resolution stated: '...that it would be necessary for India to retain troops in Kashmir for defensive purposes as well as the maintenance of law and order. Recalling that the same issue had been raised in the Security Council, he said that the Government of India must have sufficient troops to protect the territory against external attack. Mr. Korbel'—the Chairman of the Commission—'commented that in his understanding, the phrase "law and order" could be interpreted to include maintenance of adequate defence inasmuch as that was essential to law and order.'

Then follows the letter of 20 August 1948 from the Prime Minister, which the Commission said was in consonance with and a fair interpretation of their views.

It may be asked whether these assurances were made by way of a secret instrument, whether the Commission was just trying to state something which was capable of two interpretations, with a view to getting some settlement and hoping that things would work out If that were so, the position would be rather awkward for the Commission, and its work would not have recorded the progress it did. But, in fact, these assurances were published and they were known to Pakistan before it accepted the resolution of 5 January 1949. I submit that whether one takes a political view or a common sense view—I am not saying that the two are in contradistinction—or whether one takes a legal view or an equitable view, when a party signs an instrument with the knowledge of certain facts, then

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the commitments it undertakes are conditioned by and must have reference to those facts. Therefore, so far as India is concerned, these two resolutions and the obligations that go with them are our international obligations.

I have not been able in the time there is to work out each of these in detail, but I will go over them again rapidly. First of all, as I said, the violation of the cease-fire agreement by the accumulation of arms and the training, at that time, of thirty-five battalions, now forty-five battalions, of the Azad Kashmir force, which is not a toy army, but which is as good as the Pakistan Army. Its personnel came out of the former British-Indian Army which acquitted itself with great valour in North Africa, in Italy and in various other parts during the war. This force consists in the main of ex-servicemen and their descendants. In addition, there are large numbers of irregulars trained in guerrilla warfare, with about 600 or so in training at one time, and after training they are thrown back into the community. I refer to the air force and the military gun emplacements, and this is the state of affairs so far as Part I, that is, the cease-fire, is concerned. It is for the Security Council to consider whether any step that we have taken was in breach of the first condition, which is the maintenance of the cease-fire. The Government of India has not violated this cease-fire agreement. We have not introduced into Kashmir any more troops or any more equipment than we had at the time of the signing of the agreement.

In fact, we have withdrawn large numbers and we have so much less people there, since, as the whole world knows, the size of the Indian Army has been reduced and it also has other responsibilities, particularly in the way of assisting in agriculture and economic development. Therefore, we ask the Security Council to look at this problem. Have we been in default? That is not sufficient, because we are not on the defence, the default is on the other side, and, what is more, it is default that goes to the root of the agreement. Just as in every contract, a breach of an ordinary superficial condition does not very much matter, it is usually known as a breach of warranty. But a breach of a condition is something that changes the character of the contract, and if it goes to the root of the agreement, then the whole of the agreement is violated.

The only thing that today remains in which we have made our contribution is that the cease-fire line is maintained, the observers are respected, and I have given the solemn undertaking of the Government of India that, irrespective of our legal rights, irrespective of our rights under the Charter, and irrespective of our desire to have the aggression vacated and to see an end of this business, the Government of India will not move one soldier, one gun or fire a shot which will violate the cease-fire agreement. But, at the same time it is our bounden duty to protect our territory, and the Security Council, in our submission, has a solemn obligation to take into account the phrases that were uttered by the Foreign Minister of Pakistan in regard to what can happen. We do not live in terror or in fear but at the same time we, as a Government with our responsibility to the United Nations, have an obligation to remain under conditions of prudence.

Nine years have passed since then. Mr. Graham's reports are before the Council. On account of there being no time, we have not been able to go into them here in the Council, but they set out the two different points of view in their relation to the UNCIP findings. The whole of Mr. Graham's activities have been concerned with this one problem of demilitarization. Those who read the newspaper reports at that time were likely to be misled into the facile impression that, out of twelve points, ten or so were accepted; the others were not. One can mention a number of points, but the key point is point 7, and that was not accepted. It could not be accepted

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because it violated the sovereignty of the Jammu and Kashmir Government. As Prime Minister Nehru said yesterday: "We agreed to concur in a plebiscite, but the Pakistan Army promised to go." It is still there—and I am not saying this; the Foreign Minister of Pakistan told us on the first day, "We are prepared to withdraw." That means that they are there and this is nine years after. And I say that this should be a unilateral action under this agreement.

So far as we are concerned, it is our duty—even though we are not remiss—to answer briefly to the allegations of breaches and defaults.

The first breach alleged against us is the Constituent Assembly. About this I have spoken so much, and I believe that when the documents of this Constituent Assembly are read, when its functions are understood, members of the Security Council—the majority, if not all of whom belong to countries and systems which want to see the functioning of bodies of this kind—will appreciate the fact that this has been concerned with the economic and the constitutional developments of that part of the area. It does not—but even if it did—decide something against accession, that would not be binding on the Government of India. It would be *ultra vires* of the Government of India Act. I fully concede that the Government of India could cede any territory as indeed any other Government could.

Then the Foreign Minister of Pakistan stated and implied so many times—and newspapers do the same—and when one has no information it is easy to come to very quick conclusions—that the Government of India delayed these matters. I invite representatives to read the proceedings of the discussions with Mr. Graham and others who have tried demilitarization. How many concessions have we made? How many agreements of a provisional character have we made in private conversations?

It goes further than all that, but I want to say here and now that they are no longer operative because they have not been accepted. They were provisional proposals put forward for this purpose.

That takes us to the present position. And I want to submit to the Council that it is not a question of the mathematics of 21,000 and 6,000. So long as there are the violations which I have complained of, so long as there is a campaign of hatred, wherever there is a slogan, it is my duty to point out that it ends—as in the case of the Roman emperors who said: "Carthage must be destroyed,"—with "India must be conquered".

Representatives on the Council cannot expect us to submit to this without exercising our rights of survival. I am going to refer to this in a moment. The present position is that nine years have passed.

The Foreign Minister of Pakistan twitted me on this *rebus sic stantibus* doctrine. I must say I enjoyed it. I have not the slightest objection to arguing the doctrine of *conventio omnis intelligitur rebus sic stantibus*, but I do not know how the Security Council can take upon itself the powers of a tribunal. That is why I did not want to quote legal doctrine but, unless I am mistaken—and I have done some research on this—the Foreign Minister of Pakistan was in error in informing this Council that it had turned down this doctrine. The Security Council cannot turn down this doctrine; it is a doctrine of international law that goes back to the days of the glossatores. It can no more turn down the doctrine of *rebus sic stantibus* than it can turn down the fundamental basis of law. And here we have the best authority, and perhaps the best people to look into this—and I hope other nationals will not mind—are the British and the Americans because they have had a longer period of the conclusion of treaties, and getting out of them and having to modify them, and so on. A large volume of law has been

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developed. I am free to concede to Sir Pierson Dixon that, according to his system, you can still put a man in prison or lock him up on a Sunday, or something of the kind. That is because the conditions have not changed in that regard. But so far as international law is concerned, the distinguished English judge, Sir Arnold McNair, whose independence has been placed beyond doubt by his giving judgement against his own country in the Iranian dispute in the World Court said:

> It is reasonable that circumstances should arise in connexion with treaties (as they do in the sphere of private law contracts) in which it is necessary to imply a term or condition. That is to say, when it is clear that, if the parties, when negotiating, had adverted to some contingency, they would have agreed to provide for it in a particular way, it is reasonable to impute to them an intention to contract on the basis of such a provision and to imply it as a term or condition in the treaty. (McNair's Law on Treaties, p. 233).

I shall come back to more conclusive statements from McNair, but in order that I may not be regarded as being completely involved in the English way of thinking, here is an American authority, Mr. Hall, who has written as follows:

> Neither party to a contract can make its binding effect dependent upon conditions other than those contemplated at the moment when the contract was entered into, and, on the other hand, a contract ceases to be binding as soon as anything which forms an implied condition of its obligatory force at the time of its conclusion is essentially altered.

The United Kingdom regards the cessation of, or a vital change in, the specific *raison d'etre* of a treaty as a ground for recognizing the *ipso facto* termination of a treaty. The principle applies to a change which destroys the very object of a treaty's stipulation: *cessante ratione cessate lex.*

As an illustration of the applicability of this doctrine, reference may be made to a proclamation issued by President Roosevelt on 9 August 1941, which announced that certain treaties had become suspended and inoperative. He said:

> Whereas the conditions envisaged by the convention have been, for the time being, almost wholly destroyed and partially imperfect, enforcement of the convention can operate only to prejudice the victims of the aggression (Krishna Menon: That is what we are) whom it is the avowed purpose of the United States to aid (Krishna Menon: And that phrase "to aid" is a statement in which my country believes) and whereas it is an implicit condition to the binding effect of the convention that these conditions envisaged by it should continue, when such a material change has in fact occurred.

The circumstances were part of the consideration of the contract, assuming that there was one. It was because of these circumstances that the promise was made and the disappearance of these circumstances, which were the foundation of the promise, rendered the promise ineffective.

These are more modern authorities. President Roosevelt was a modern person in this connection, and so is Sir Arnold McNair. But Oppenheim is the classic authority. He wrote the following:

> ...it is an almost universally recognised fact that vital changes of circumstances may be of such a kind as to justify a party in demanding to be released from the obligations of an unnotifiable treaty. The vast majority of writers as well as the Governments of civilized States define the principle conventio omnis intelligitur rebus sic stantibus, and they agree, that all treaties are concluded under the tacit condition rebus sic stantibus.

In substance, although it has on occasions been abused by providing a cloak for lawless violations of treaties, the doctrine *rebus sic stantibus*, when kept within proper limits, embodies a general principle of law. Oppenheim goes on to say:

> The consent of a State to a treaty presupposes a conviction that it is not fraught with danger to its existence and vital development. For this reason every treaty implies a condition that, if by an unforeseen change of circumstances an obligation stipulated under the treaty should imperil the existence or vital development of one of the parties, (Krishna Menon: I repeat

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the words "should imperil the existence or vital development of one of the parties") it should have a right to demand to be released from the obligation concerned.... The doctrine *rebus sic stantibus* conceived as a legal doctrine embodies the same principle which the law of various countries has admitted as a ground for dissolution or discharge or unenforceability of contract owing to a vital change of circumstances.

I am not relying on this doctrine, because I am not going to use this doctrine. My Government does not accept the view that the Security Council is called upon to take over the functions of the World Court, but the substance of it is important politically. There was some suggestion that I have avoided even mentioning this because there is something wrong about it.

Now *rebus sic stantibus* is a very respectable and ancient doctrine. But of course it is the law; it is one of those outstanding instances where the law is conditioned by fact. What the World Court has said is that the doctrine still holds, but it could not be applied to the case before it. The Permanent Court of International Justice, particularly in the case of Upper Savoy, said this years ago. I cannot find any evidence in the proceedings of the Security Council—and I shall be prepared to withdraw this statement if I were shown it—where the Council has turned down the doctrine as a doctrine. I can see no evidence of it. If it did, then with great respect, it would be acting beyond its own powers, because it is not a law-making body. You would have to go to the International Law Commission. That is so far as this is concerned.

May I now try to deal with people who are not lawyers? One is a very dear friend of my country, and that is the former Prime Minister of the United Kingdom, Sir Anthony Eden. I hope I am not starting any difficulties in regard to the sides taken in other controversies. The four Foreign Ministers, Mr. Bidault, Mr. John Foster Dulles, Mr. Molotov, and Mr. Eden were at the Foreign Ministers' Conference in Berlin in January and February of 1954, and the question of the treatment of Germany arose.

It is neither my purpose nor my business to go into the merits of that question. I have only to deal with what is the effect of an agreement in certain circumstances, and in all this, on the basis that there was an agreement—I have been at pains to point out the nature of that agreement, and I do not want anything that I say to be stated here afterwards that even in 1957 the representative of India said there was an agreement. I have to be extremely careful in view of the previous history. Here is what Sir Anthony Eden said. This is in reference to the Potsdam Agreement, where the Russians were insisting that on account of the Potsdam Agreement, the European community, and various other things, were not possible, and there was this clause and the other clause. This is what Sir Anthony Eden said on 1 February 1954:

> We are all pledged to give the German people the opportunity to reconstruct their lives on a free and democratic basis, so that they may take their place among the peaceful peoples of the world. This principle was embodied in the Potsdam Agreement, and referred to by M. Molotov on January 25. We all have a duty to uphold it. (Krishna Menon: It is not as though they were just scraps of paper) But that does not mean that all the provisions of the Potsdam Agreement are applicable. The Soviet Delegation itself has said that some of them have been overtaken by events. (Krishna Menon: This overtaking of events is a political issue) It is indeed clearly stated in the Agreement itself that it is intended to cover the treatment of Germany in the initial control period.

That is again another matter to be taken into account. If all this argument, all these resolutions and everything else are in terms of the cease-fire, hoping that they will be terminated quickly, then you get a different picture after nine years. Supposing this goes on for ninety years, are we still in this business?

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Then there is the final sentence of what Sir Anthony Eden said:

We have to look at the facts as they are today, and not as they were nine years ago.

The nine years is a coincidence. If I quote Sir Anthony Eden, who is not a lawyer, distinguished as he is, I may perhaps be regarded as quoting lay authority on a subject on which I have just now quoted a Latin doctrine. Therefore, we come to Mr. John Foster Dulles, who in the days of less political involvement was a distinguished political lawyer. And once a lawyer always a lawyer. This is what Mr. Dulles said on behalf of the United States of America, as Secretary of State, on 26 January—it says 26 January; I did not put down this date:

These decisions of Yalta, which my own Government shared, were understandable in the context of the day. The German war was still in full vigor and wars are not won by a spirit of tolerance. (Krishna Menon: We should have learned that.) But it is said that today, nine years since the German armistice, one of the parties to the Yalta Conference should attempt to revive the bitterness and hatred of those days and the cruel decisions which that hatred and bitterness occasioned.

The implication of it is that when conditions change—in this case the whole position is reversed—a new position is created. Now we come to Mr. Bidault who said the following:

The Peace Treaty must be of such a nature as not only to provide a suitable conclusion to the war, but to avoid sowing the seeds of a new conflict. (Krishna Menon: This is one of those things which in the case of Kashmir the distinguished members of the Security Council may well bear in mind.) In my own view there are two fundamental considerations. The peace must not be vengeful peace or an imposed peace. It must look to the future and not only to the past. It would be irrelevant to insist on too closed an interpretation of the Potsdam Agreement, in the drafting of which France, as a matter of fact, had no part.

France, as a matter of fact, had no part in it, so it subscribed to it afterwards. So its action is something after the fact.

Now we come to Mr. Molotov. Mr. Molotov said the following on 1 February 1954, the same day as Mr. Eden spoke:

According to these agreements the Soviet Union, the U.S.A. and the U.K. would act together in helping the German people rebuild their State on democratic and peace-loving principles. In due time France associated herself with these decisions although M. Bidault now and then tries to avoid discussion of these agreed decisions. I suggest, however, that these agreements are no less necessary to France than, let us say, to the Soviet Union.

That is the statement on the other side. But then he goes on to say:

We acknowledge that many points of the Potsdam Agreements have become outdated.

That statement, apart from any political views one way or another, has very considerable force, because here is the cent percenter, more or less, saying, as regards the Potsdam Agreement:

We acknowledge that many points of the Potsdam Agreement have become outdated. Nevertheless, the fundamental meaning of these agreements remains fully enforced.

For purposes of reference, these quotations are from United Kingdom documents issued by Her Majesty's Stationery Office, relating to the meeting of Foreign Ministers of France, the United Kingdom, the Soviet Union, and the United States of America, Berlin, 25 January—18 February, 1954, Command Paper 9080.

These may all be regarded as universal, and it may well be argued, do they apply to this particular instance? Therefore, we come to the Commission. What does the Commission say? It says:

In a sense, the problem of the withdrawal (Krishna Menon: That is of Part II of the 13 August agreement) lies in the fact that the sequence for the demilitarization of the State, as contained in the Commission's resolutions of 13 August 1948 and 5 January 1949, is not adequate to solve the present situation. The situation in the State has changed. The resolutions remain unchanged. (Krishna Menon: That is

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what happened to the last resolution the Security Council passed). Again in the question the Commission endeavoured to find the means of reaching an agreement without contravening the terms of the resolution; but taking into account the changes that have occurred in the situation, (Krishna Menon: That is what the Commission is saying: taking into account the changes that have occurred in the situation) it found that the Governments were strict in adhering to the letter of those clauses which met their position. (S/1430, Supplement No. 7, para. 249).

The Commission says in the Third Interim Report, in another paragraph:

> Over a prolonged period in a changing and dynamic situation (Krishna Menon: And this is particularly true of the part of Kashmir which is still under the administration of Jammu and Kashmir) and restricted by long-standing related clarifications which proved to be a real impediment to reaching agreement, the framework of the resolution of 13 August has become inadequate in the light of factual conditions in the State. The Commission has been unable, therefore, to mediate much beyond what is today another outmoded pattern. (*Ibid.* para. 283).

There are other instances for which you and I are responsible. One was the question of Trieste. Here was an agreement that something had to be done in a particular way. Something else was done and the Security Council did not regard that as a breach of its resolutions. The Italian Peace Treaty provided for the establishment of the Free Territory of Trieste. The Statute for the Free Territory conferred upon the Security Council certain functions and responsibilities in respect of administration of the Territory, including the appointment of the Governor in consultation with Yugoslavia.

At its ninety-first meeting on 10 January 1947, the Security Council adopted a resolution formally accepting the responsibilities devolving upon it under the relevant treaty document. Here is an acceptance by the Security Council that makes it a party, a point to which my Government wants to come back. The Council, however, failed to agree on a candidate to be appointed as Governor and the military administration of the area continued.

On 5 October 1954, the representatives of Italy, the United Kingdom, the United States and Yugoslavia agreed on certain arrangements concerning the future of the Territory different from those provided in the Peace Treaty, and the people seemed to have been comparatively happy. That is the history of Trieste.

There is another instance to which I want to refer. I do not have the time to go into its history, but all the members, particularly the great Powers, will recall the discussions in Dumbarton Oats, San Francisco, London and other places in the founding of the United Nations when it was definitely laid down that any State that was a creation of Nazi power could not be a Member of the United Nations. That was the basis on which the United Nations was founded.

On 9 February 1946 we passed a resolution. India voted for it. It stated:

> 1. The General Assembly recalls that the San Francisco Conference adopted a resolution according to which paragraph 2 of Article 4 of chapter II of the United Nations Charter 'cannot apply to States whose regimes have been installed with the help of armed forces of countries which have fought against the United Nations so long as these regimes are in power.' (Resolution XVI 7 of General Assembly resolutions, first part of first session).

This was a resolution barring for ever the admission of Spain to the United Nations. Last year, by unanimous vote, we admitted Spain. Why? Because conditions had changed. The same rulers were in power and the conditions of origin had not been changed by history. But the conditions of the world had changed.

I want now to deal with plebiscites for a moment. These were all in regard to general agreements. I would like to invite the attention of the Council to the history of plebiscites. There were large numbers of plebiscites which had been initially agreed

Plebi-

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upon, many of which were never carried out. The Covenant of the League of Nations, which was drafted in much greater detail and probably with greater reference to some of these matters, contains the law and the practice of the time. Article 19 concerns abrogation of inconsistent obligations.

Certain plebiscites were required to be held by the treaties of peace. After the First World War, the method of plebiscites was used in a number of cases, and whenever those plebiscites could be held in a reasonably short time, they took place. There are five instances: in Schleswig in 1920, as recorded in part 3 of the Treaty of Versailles; the plebiscite of the Allenstein and Marienwerder in 1920, also under the Treaty of Versailles; the plebiscite of Klagenfurt Basin and Upper Silesia in 1921; and in Sopron in 1921.

These were plebiscites that were actually held in pursuance of international decisions that were taken. But each one of them was a plebiscite that became effective soon after the decision.

But when we come to other plebiscites the situation is rather different. There was an attempt to take a plebiscite in Teschen, Spisz and Orava in 1920. That was in pursuance of a decision of the League Council of September 1919. There was a proposal for a plebiscite in Vilna in 1921. There was the plebiscite of Tacna and Arica provided for in the Treaty of Peace between Chile and Peru.

Now, what happened to them? In the Vilna case, the conclusion with regard to the attempted plebiscite shows that when there were delays in carrying out the plebiscites, "the inevitable consequence of these delays is to make it impossible for the Council"—the League Council—"to adhere to its plan of a speedy Popular Consultation as orginally contemplated". The Council "has there for been compelled to consider whether the parties interested really and sincerely desire a Popular Consultation, and if it would not be possible to devise some more simple and effective procedure". (*League of Nations Council Minutes, Twelfth Session, Annex* 163 b.). The result was direct negotiations.

Then you come to Teschen in 1920. This is an instance of plebiscite, which has some relation to the present circumstances. When tension increases and racial hatreds flare up, it is not considered opportune to hold a plebiscite. (*Plebiscites Since the World War, Wambaugh Volume I, page* 156.)

Then there is the classic instance of the Alsace-Lorraine. In regard to Alsace-Lorraine, Andre Tardieu of the French Government of the time, who was High Commissioner for this area, said:

> To hold the plebiscite now, the French maintained, would be to sanction the wrong done in 1871 by admitting the lawfulness of this act of violence. (*The Truth About the Treaty by Andre Tardieu, page 237*).

It almost looks prophetic in these words.

The best authority on plebiscites is Matiten. He says:

> The plebiscite can render effective service only when and where such binding agreements free from all force have been reached in advance by the parties involved, to the effect that a majority of fixed and agreed proportion shall prevail, and where the plebiscite is employed solely to establish which side of the issue involved can muster this majority and where the resulting minority is assured of a fair degree of local autonomy and enjoyment of its own language and religion.

> No State at the present time from the point of view of constitutional law recognizes the right of secession by way of a plebiscite. By doing so, it would invite its own destruction.

I did not write that one.

I shall now deal with breaches on the other side. I am afraid I have arranged my time so badly that I will have to rush through this. Therefore, I shall only itemize them. If we come back again I shall go into the details.

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Chitral

The first of the breaches on the part of Pakistan is withholding information from the United Nations that it was a combatant and that it was a party to the invasion; and allowing the United Nations to proceed under Chapter VI, thinking on entirely different set of circumstances. In regard to this, there are a number of observations by UNCIP to which I made reference in my previous statement before the Council.

The next is with regard to non-withdrawal. By withdrawal is meant the removal of striking capacity in that area. It is not merely to put your foot on the other side of the frontier. Withdrawal of an army is the withdrawal of striking capacity. Not only has the Pakistani Army not withdrawn, but the changed conditions in view of the imbalance of forces created by rearmament is such that withdrawal has become practically impossible.

I have already referred to the violations of the cease-fire agreement—the training of the Azad Kashmir irregulars, the importation of arms and the building of airfields for the taking off of fighter jet planes. But the most important, from a constitutional point of view, of this violation to which my Government with great respect expresses its surprise that the Security Council has not given attention, is the integration of the territory.

Now, I have in the last two or two hours and a half analysed the documents paragraph by paragraph, and have shown that Pakistan has no *locus standi* in this area at all, and that the only way Pakistan came there was by force and by violation of every moral law and every political law, of every international canon of behaviour. Therefore it had no right whatsoever to incorporate the territory. The Council took a very strong view in regard to the Constituent Assembly, which had done nothing of this kind, which is only proceeding in pursuance of a legal action. But what is on the other side? The distinguished Foreign Minister of Pakistan asked the other day, "Why has the Government of India become suddenly exercised over Chitral?" The reason is very simple. The Pakistan Constitution Act was passed only very recently. And it was only when that Constitutional Act was passed that we raised this constitutional point. Article 1, clause 2 (b) refers.....

The President: I am sorry I have to interrupt for a moment, just to ask how much time the representative of India will need to conclude his statement.

Krishna Menon: Sir, I am doing my best; if I spoke any faster nobody would understand me. On the other hand, the Security Council appreciates that the press of the United Kingdom, the United States, France and other countries are poorly informed about the situation. The Security Council has passed a resolution on the last occasion without taking into account some of these matters. My Government has the duty to lay these facts and record them before you. We proceed on the basis that no Member State would take any steps in these matters without considering what are all its implications—what is past, what is present and what is ahead. That is why I am quite prepared to stop and do it tomorrow if that is the will of the Council. But I am quite prepared to go on. I have been conditioned to finish today.

The President: My only reason for asking the representative of India is that we have to find out how we are going to proceed. I would like to know if possible what the total time would be, because if it is very long we would have to adjourn the meeting until 8-30 this evening and then continue.

Krishna Menon: The incorporation took place in the Pakistan Constitution and with regard to Chitral—

The President: I am sorry to interrupt. I did not get the reply to my question. Will it be a very long time?

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Krishna Menon: I will try to finish in half an hour, but I can give no guarantee on that. I am not trying to drag this out.

The President: In that case I think the representative of India can proceed.

Krishna Menon: The accession of Chitral has been accepted by the Government of Pakistan and it is included in the arrangements in the Constitution as a State that has acceded. Now, Chitral cannot accede under the terms of the Cabinet Mission document or under the obligations of British Crown in the past, because her name does not appear in the States that are entitled to accession either in the 1935 Act or thereafter. What is important—we are up against time—I could read to you dozens of documents of the British Residents, of the Secretary of State for India in London, where the suzerainty of the Maharajah of Kashmir over Chitral is accepted by the British Government. And what is more, he received tribute from Chitral which revived subsidies from him. As for Chitral, the position is that it is part of Kashmir.

So the Pakistan Government, I do not know for what reason, because they amalgamated the others in other ways, received the accession from the Mehtar of Chitral—the ruler of Chitral—which he had no right to give because he was only a feudatory, he had no right of accession. And it was incorporated in the Pakistan Constitution.

The matter came up before our Parliament and we have stated the position. It is not as though we were taking any effective steps to undo this business or to violate the cease-fire agreements, but the incorporation of Chitral is therefore against the resolution of 13 August, and what is more, a violation of the arrangements reached when the British left India.

I make reference to Part I of the Constitution of Pakistan and Article 1, Clause 2, sub-section (c) which incorporates territories which are under the administration of the Federation but are not included in either province. That is to say, anything that is administered by the Pakistan Government but is not one of the provinces becomes part of Pakistan. Now, the whole of these occupied territories is administered by Pakistan and so under Article 1, Clause 2, sub-section (c), Pakistan has illegally incorporated these territories. Therefore, there has been a violation of the cease-fire agreement; a non-withdrawal and the incorporation of these territories. This applies to Gilgit, Baltistan, Hunza, and Nagar, the whole of Western Kashmir and all those areas which are on the other side of the cease-fire line. And therefore if the changing of either the *status jure* or anything else was wrong in so far as the Constituent Assembly was wrong—which we deny—here is a major sin. So we ask: Why is it true that a gnat swallowed this camel?

The Security Council has been faced with this fact, that the territory which, under the UNCIP resolutions, Pakistan had no right whatsoever, which Pakistan is supposed to vacate, where only local authorities can function, are incorporated in the territory of Pakistan. But the most difficult and the most important of these violations are in regard to the campaigns that are carried on in Pakistan itself. Now this has varying tempo, sometimes it is more, sometimes it is less. It is not only aimed at the personalities of India, but also against the whole of our country. "The liberation of Kashmir," says the Governor-General of Pakistan on 19 September 1950, "is a cardinal belief of every Pakistani. It is an integral part of Pakistan, and Pakistan would remain incomplete until the whole of Kashmir is liberated." That was not a sort of blood-curdling statement, but there it is.

The *Times* of Karachi carried the Pakistan Prime Minister's speech on the tenth Independence Day. "I am ready for the

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liberation of Kashmir," he said, "but I want the people to get ready." The freedom of Pakistan, he said, would not be complete without Kashmir. He exhorted the people to acquire the spirit of unity. He said that the Kashmir dispute was going before the Security Council, but the nation would not rest there. I want to draw your attention to that phraseology: "The nation would not rest there." So the Security Council is only part of the procedures to carry out other designs.

The Prime Minister made another speech in which he said the following:

The crowd listened to the Prime Minister and cheered him when he declared that he would not rest until the Kashmir Moslems were freed and that he would not allow his countrymen to become slaves, even if they were to live without food or clothing.

The Governor of West Punjab said:

So long as a single Pakistani is alive, nobody dare snatch Kashmir from Pakistan by force.. If the problem is not settled immediately, the whole of Asia would be engulfed in the flame of war which might lead to a world conflagration.

He also said: "We would not mind being cut into pieces but will certainly conquer Kashmir."

Here is another statement immediately afterwards. "We will have to exhibit our strength if we want to take Kashmir," the Prime Minister said, "It is not only the entire Pathan population"—these are the people from whom the hordes came before—"of Pakistan and the tribal area that will rise up for the holy Jehad"—the holy crusade—"in Kashmir, but our brothers from across the Afghan frontier will also throw in their lot" with their cause. If that is not an incitement to war against our country, I should like to know what is.

I shall not read in full the statements of important persons and religious leaders but I shall refer to them. Here is one of the most important leaders:

Today Pakistan is standing on the verge of war and sooner or later she will have to go to war against India.

These are newspapers, but I do not propose to read them. Since the Security Council passed its resolution, there have been considerable demonstrations in Pakistan, and the whole tenor of these is the conquest of India, that is to say, the leading of armies into our territory, and there is the exhortation to the people to carry on this campaign. It says that "it means fear of God, financial sacrifices by every individual, whether trader, master or clerk, getting together and making a firm resolve to unite the nation." This is one of those things on which India has definitely given its pledge, and no responsible person in India would ever say a thing like that. They urge purification of the heart and feelings of unity. Everyone should be overflowing with excitement and make it a point to assemble at fixed places in their respective towns. In all these public meetings Pandit Nehru would be asked to hand over Kashmir by a given date and give up forthwith the annihilation of Indian Moslems and enmity towards Pakistan, "failing which batches of ten lakhs," meaning a million, "would march towards Amritsar and Patna."

These are some of the slogans, which are officially based. They are sponsored, because these demonstrations are received by the Prime Minister; he spoke to them. I cannot read the Hindustani, but I shall read the translations. Here is one:

If Nehru is finished, that would be the end of Congress, and the capture of India would become certain.

The next:

Ten lakhs should get prepared for the march towards Amritsar.

Here is another poster:

India shall be conquered in 1957 only if every person gives up falsehood and fraud.

That was a good idea. The next one:

If every person would make some sacrifice, India would be conquered.

The next one:

India is bound to be conquered after these ten years of suffering. Get ready.

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The next one:

Get united. Get righteous. India will be conquered.

Leave all the parties and turn Moslem. India will be conquered.

Give up all rivalries. India will be conquered.

These are all different posters.

Weigh correctly. Make an honest living. India will be conquered.

Then there is another thing: salutations to every person they meet, "India will be conquered."

Shah Rahmatullah Wali predicted that Moslems in 1957 would conquer India: Therefore, march. Once India is conquered all ailments will end.

Fulfil your promises. Don't tell lies. India will be conquered.

That is preposterous. Presumably that is the truth.

Do away with all your enmities during 1957, if India is to be conquered.

Settle all your mutual affairs. India will be conquered.

Observe complete Hartal on date announced, if India is to be conquered.

I have quoted only some of these. There are some which it would not be aesthetic to read in the Security Council. So this vast campaign of religious hatred and fanaticism is fanned. That is the position.

Now I think it is necessary for me to state to the Security Council the position arising from all this. In order to obtain a vacation of the aggression and to implement the complaint on which we came here, we joined in every endeavour that was possible. The view that is taken with facility that we committed ourselves to something without pre-conditions is, I submit, wrong. It is not only wrong, but I should like to quote to you the appropriate provisions of the Charter. I refer to Article 24, paragraph 2, of the Charter. I shall read only one sentence:

In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations.

The Purposes and Principles of the United Nations are, as far as is relevant to this, set out here, and this is the important part:

...and to bring about by peaceful means, and in conformity with the principles of justice and international law.....

I submit that the considerations of international law that I have pointed out to you, the considerations of justice that I have pointed out to you, the desire of India to live as a democratic community giving equality to our peoples to enable a large democracy with nearly 200 million voters to demonstrate to ourselves and to the world that that way of life is possible—that is one of the treasured objectives our people have.

Therefore, the further article in the Charter, referring to this particular matter, which is binding upon our friends opposite is Article 2, paragraph 4:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations.

I am directed by my Government to say that it has been sometimes said, perhaps with a feeling of apprehension, that the peoples of India and its Government have not reconciled themselves to the idea of partition and the existence of Pakistan. I tell this Council what we have told all the world: that we have no desire whatsoever to undo the partition. It is the price we paid for our independence. We did not like it. Nobody likes his country to be cut into pieces. But it was better than civil conflict at that time.

It was an agreement we entered into among three parties, and that agreement we shall honour. We have no desire to reunite India as before partition. In fact, we have enough problems of our own. We have enough headaches and difficulties, and we do not want to take on more.

So I want to make this solemn statement that any propaganda, any statement, any fear, any apprehension, any suspicion that exists in anyone's mind, that my country, my Government, or our people have anything but the desire to live in

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peace with our neighbours does not correspond with the truth.

We have come to so many agreements with them on various matters. They are suffering, we are suffering. We have families that live on the two sides. We have lost a lot of territory in the sense of the constitution of our State, but we are getting the people. There is no responsible person in India—never mind the political parties, but there is no responsible person in India—there is no responsible body of opinion that wants to venture on an act of hostility. I ask you to read the Indian Press and the statements of Indian leaders and compare them with what I have said about the other side. I confess that there have been one or two student demonstrations.

Our leaders have done everything they can to persuade our people, and successfully persuaded them—we are a free country, and we cannot stop them—not to indulge in expressions of hatred either toward Pakistan or toward the United Kingdom or toward anybody else they may think is involved in this matter.

But the main thing is this: We have no desire to undo the partition. We do not regard that as a *pro tem* affair. We agreed to it with our eyes open. We knew the consequences. We have suffered economically, politically and culturally. We have created problems for ourselves. But, if we were now to try to do anything, those problems would become worse.

We recognize Pakistan as a sovereign State. And not only do we recognize them, but they are a sovereign State. We recognize all their attributes of sovereignty. We have no desire to interfere in their affairs. We are not interested in their form of government. They can have elections, if they want them—and they do not have to have them, if they do not want them. We only want to be left in peace. We will not at any time yield to provocation to use force. But if our territory is violated, we shall look to the Security Council, to the Charter, to the public opinion of the world. And my country has given continuous evidence, tangible evidence, of its loyalty to the Charter, of its willingness to take on responsibility, of its readiness to take on unpopular roles in what it considers its duty in regard to international obligations. And therefore any suggestions, from whatever quarter it may come, that India nurses some hatred, that Kashmir is a jumping-off ground for something else or part of a score that is not settled, is entirely unhistorical.

I want particularly those who have been closely related to us in the past, who know some of the background, to bear this in mind. India will honour its international obligations. The only obligations are these two resolutions. Those two resolutions have to be judged in the light of the words in them, the spirit in them—I do not say we will be going beyond the words of what they intend—which can be reasonably drawn from the printed words of the time and the assurances given as solemn undertakings. And we shall honour our undertakings. But time has passed and certain things have happened. Our position is that the State of Jammu and Kashmir is Indian territory; it is part of the Indian Union.

We came here with a complaint of aggression. In our submission, it is the duty of the Security Council and the duty of Member States through diplomatic channels, through co-operative action or individual action, to exercise their influence in such a way that this aggression is vacated.

My Government invites the representative of any Government to go into Kashmir. No one will stop you. You can go anywhere you like—ask anybody you want. We have neither silk curtains nor bamboo curtains nor anything of that kind. You have to obtain permits and pay for your living. But, apart from that, it is an open country, which is visited by thousands of tourists including foreign journalists.

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It is a territory where, for a long, long, long time, there has been backwardness. And it is no argument on the part of my Pakistani colleague to come and tell us that the Maharajah of Kashmir paid the British Government—what was it?—a half million pounds, and therefore bought this piece of land.

I ask Mr. Lodge whether the United States Government would be willing to take that view about Louisiana and return it to France, or to abdicate its rights over Florida and return it to Spain, or over Alaska and return it to Russia, or over Rhode Island and return it to whomever it belonged. Purchases have been made in the past—and, if there has been any immorality about the purchase, we were not the rulers at that time. Her Britannic Majesty, Queen Victoria, held the responsibility. And we are not shirking the responsibility, because we are her successors in title. So whatever has happened there has happened when Pakistan and we were one country—and we cannot now separate the sheep from the goats.

I submit the views of the Government of India to the Security Council in the firm belief that, above all things, it has to be remembered that there is prosperity in the land of Kashmir. I have not been able to read the various commentators—Scandinavians who are traditionaly neutrals, have been out in our country and have seen these things,—but there is peace and prosperity, there is development of democratic institutions among a people who have been steeped in ignorance and backwardness for generations and have had no industries, no development of waterpower, no exercise of the franchise. That has been done in association with a country where not only are there 200 million people entitled to exercise their franchise but where, over and above that—in our land of India—there are probably 200,000 bodies where people exercise power in that way, where every single person, from the President to the lowest village official, is elected.

Any unsettlement can only be based on this appeal to non-secularity; it can only be based on this appeal to religious prejudice. The only "claim" that can be put forward on behalf of the Pakistan Government, in regard to Kashmir, is that the majority of its population is Moslem. And my Government—totally, for all time—repudiates what is called the two-nation theory. We will not accept as the basis of our State the religion of a people. The United Nations is a secular organization. The majority of you would not discriminate against a Catholic or a Protestant because such a person happened to be in the minority. But here is the Constitution of Pakistan, which says that, if a man does not belong to the Islamic religion, he cannot be the President of the State.

I invite you to read an article by Mr. Sulzberger, of the *New York Times*, a paper that is consistently hostile to us on every question—an article which refers to the position that there will be no democracy in Pakistan. I am not quoting him as an authority; I am quoting him as a friend of theirs. So there it is.

That is what we are asking for. Whatever there may be of right or wrong in a problem, if there are difficulties in a situation—and I repeat: a situation—it is necessary to find means of settlement.

I ask the President and the members of the Security Council whether, in the ten years that my country has been represented here, it has been found wanting in attempts to reach these solutions. Can the Government of Pakistan tell us that, in very complicated matters of other kinds, we have not gone through a great deal of negotiation and settlement along with them, and that we have not bent over backward to find settlements? We are in the United Nations with a record that is clean.

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On the other hand, there is the crime of invasion—and that is a crime that cannot be tolerated. We have not asked that anybody be branded an aggressor. Why? It may be a mistake on our part.

I have deliberately not referred to suggestions that have been made by the Foreign Minister of Pakistan, as to what he regards as solutions, because they are not solutions and they are violations of the Charter and of international law and they are a mockery of the undertakings that rest on the shoulders of the Pakistan Government.

My Government does not regard it as right, so far as its duty to the Security Council is concerned, to discuss those proposals unless the Security Council wants to discuss them. So far as we are concerned, there are no proposals. We have given the solemn undertaking that we shall not use a gun, we shall not fire a bullet, we shall not move an aeroplane over the cease-fire line to assert our rights, that is to say, we shall not determine by force the future of that part of our country which is under Pakistan occupation. We shall seek to solve every problem peacefully, but our peacefulness is limited by the fact that we shall not brook aggression upon our territory. And we look to each one of you to stand with us if there is a violation of one square inch of Indian territory, because we are loyed Members of the United Nations. To each of you we are bound not only through the United Nations but by bilateral ties and by appreciation and respect even when we are in fundamental disagreement. And I submit we have the right to look to you in a matter of this kind.

It is not the kind of problem where a resolution can be passed and it can be said that somebody has disobeyed—I told you about the nature of resolutions. The only resolutions that are binding on us would be resolutions under Chapter VII, and this problem is not under Chapter VII. But I am not arguing legalities, I am not the defendant in this case, I am the plaintiff, although it may not so appear after these seven, eight or nine years. That is because we are a mild and meek people, which is shown by our patience in this matter, our forbearance, our desire to explore everything. The Security Council, if I may say so, and if you will pardon the expression, has no right to think that our country is going to throw overboard the principles of the Charter, our insistence upon a secular State, the fundamental rights that are guaranteed to our people under the Constitution, the freedom that our people have won, which has also brought freedom to Pakistan, and the terms of co-operation with those who are our erstwhile opponents, with whom today we can disagree and still remain friends. It is those things that we value and that is why my Government has given me instructions to present this case as fully as possible. What has been committed in Kashmir is a violattion of our territory; and any imprudent action could plunge the whole of our continent into bloodshed and civil war.

It is very wrong for the Foreign Minister of Pakistan—who ten years ago was a fellow citizen and even today is a very close friend—to tell us that these are threats. We utter no threats. What do we want to threaten anybody for? We are a very large country with many problems to tackle. We only want to be left in peace. We have no desire to stop their waters or their money or their trade or anything of that kind. To the extent to which our home responsibilties permit, we are prepared to cooperate. It is not we who have turned our faces away from the sub-continent of India. It is Pakistan that has turned away from the continent of India. We still regard it as part of this ancient land whose heritage is common to both of us.

It is in that spirit that we ask you to consider this problem and to give it all the consideration it requires. On behalf of the Government of India I am asked to pledge our faith that we shall never be found wanting in the methods of exploration, but I think it is necessary to take a realistic view

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that the resolution of nine years ago, the conditions of nine years ago and the slogans of nine years ago—and if I am not out of order I turn to my colleague of the United Kingdom—and the newspaper campaigns in different countries will not shake our faith in what we regard as the righteous course of action that we took when we came here.

I want finally to ask: Why did we come here? Not because we were a weak country. The British left us a militarily strong country. They left us immediately after the war with nearly 2 million soldiers, a great part of them only just demobilized; a military position superior to that of Pakistan. Militarily we could have solved this problem any day, but that would not have been a solution. That is why we came here, and if this aspect of the problem is not taken into consideration it is not India alone that suffers—India's suffering will be momentary—but the Charter, the United Nations, which suffers because this is a penalty which is imposed upon those who will obey the law. We came here in full trust in the United Nations. For nine years we have been pushed from pillar to post and we have been castigated for allowing our people to express their will.

Do all you democratic countries say that the four and a half millions of Kashmir should have been ruled by the officials from Delhi without having the opportunity to express themselves in Parliament? You talk about those people who are imprisoned; is there any country around this table who has not got some skeleton of this kind in its cupboard? If there is, it is a happy country and we wish it well.

I am quite prepared to trust myself to Sheikh Abdullah. Let anyone show me anything that Sheikh Abdullah has said from the time when he became the leader of the national movement in Kashmir—which started as a Moslem movement and he gave it up and said: it is my country, Moslem or otherwise; he would not stand for that. He went to the Constituent Assembly and plainly offered them three alternatives: You can go to Pakistan; you can remain independent or you can go to India and he rejected the first two. I challenge anyone to show me one phrase uttered anywhere by Sheikh Abdullah—and he has now become the pet idol, although before he was called a Quisling—I ask anyone to show me one phrase where he says he wants to become part of Pakistan.

If we are told that we did not permit anybody in Kashmir to say that there should be a plebiscite, I would say that there is nothing further from the truth than that. One of the political parties in Kashmir which was allowed to fight in the election, which was registered as a party, is called the Plebiscite Front. Its leaders are out, they campaign, they use even the mosques for propaganda and we have not denied them anything. How could we, with 70,000 people a year going there with journalists in the place at any time, even if we wanted to? What is more, what would be the reaction upon the rest of India? Our country would not stand for that and if you suggest to us that there should be unsettlement, we say that unsettlement is the worst thing that the Security Council could wish for, not only for us but for the Asian continent. And I look to my Asian friends to think of that problem as well. The instability of any part of our world, which has just emerged into national birth, is an instability that will affect everybody. Today our voice is not heard in high circles in Pakistan but we are not without friends in that country. There is nothing that the Pakistan Government can ever use against us without exploiting any of their difficulties or using any of their dissidences, because our view is that we have our own troubles and they have theirs. If we can help them we shall do so, we do not want to hinder them. That is why for two years we have been sitting in Washington under the auspices of the World Bank discussing canal waters and so on and it might amuse the members of the Security Council to know that the

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greater part of the waters of the Indus runs into sea without going anywhere, and what all this argument is, no one knows. But we are prepared to meet them and we have met considerable financial losses in that way. But we cannot get away from the fact that our country has been invaded, and that for nine years we have never used any phrases such as: "After the Security Council, what?" Because that is not the way to look at this problem. We are part of the Security Council even if we are not members, because all of you here represent us; and therefore we say there cannot be any solution to this problem except by recognizing what is called original sin.

We are prepared to have discussions, to find ways and means, but we cannot find those ways and means on the basis of an original wrong. This is not obstinacy; we have tried everything. This is the only way to deal with this problem and I believe Pakistan and ourselves can come to agreement on that basis.

My colleague quoted the Holy Koran. It is not the monopoly of the Moslem, and I will quote it for him—and not in the spirit in which it was quoted to me. One part of it, in the English translation, says:

> And whoever committeth a crime, committeth it to his own hurt. And God is Knowing, Wise.
>
> And whoever committeth an involuntary fault or a crime, and then layeth it on the innocent, shall surely bear the guilt of calumny and of a manifest crime.

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VI

15 February, 1957

Krishna Menon: Mr. President, I believe, you reminded the Council this morning that its proceedings would centre around the draft resolution or at least I gathered that impression. Since there have been reasonably long debates on the general issue, I propose to confine myself to the draft resolution initiated by the United Kingdom and the United States and now sponsored by Cuba and Australia. The operative part of this draft resolution requests the President of the Security Council, the representative of Sweden, to examine with the Governments of India and Pakistan proposals to visit, so far as we are concerned, India for this purpose and invited the Government of India to cooperate.

Before I enter into the substance of this matter and in order that the position of my delegation, my Government and my people should be understood, not only in this Council but in the outside world, I should like to state here and now that, so far as we are concerned, Mr. President, your counsel, your country, the high office you hold and your person are held in high respect in India and you would be welcome at any time. But the question of the functional character of operations you propose to undertake would be another matter which we would have to discuss in substance. Therefore, the traditional hospitality of our country would not be disregarded even in the face of the Security Council resolution with which we may find ourselves in disagreement.

Having got that out of the way, I would like now to refer to the subject matter that is before us this afternoon. There have been several speeches. The majority of them, if not all of them, purport to be based upon statements made by India and Pakistan and, for the greater part, refer to the statement that I made in this Council. Therefore, it becomes necessary for me to deal with the more relevant parts of them, because it is impracticable to deal with them paragraph by paragraph. First of all, I do not have the script with me and, secondly, it will become interminably long. After that I will try to examine this draft resolution and deal with its more important aspects as far as the text concerns us.

Next, I will try to convey to the Security Council what are its consequences. I do not mean short-term consequences of how members of the Council vote. What are its consequences with respect to peace and stability in our part of the world, with respect to public opinion not only in India but in South-east Asia, with the exception of parts of Pakistan and with respect to the purported objective of the draft resolution itself? These are obligations I owe to the Council. Some of them may not be welcome to those who are authors of other observations. But my duty here is not to reflect the will of other governments but to reflect, as far as I can, the will of my people and my Government and to convey to you the state of affairs.

It is not so long ago that for the sake of peace, and in order not to drive certain issues to differences, we came to an agreement with the then British Government of the day to station a boundary force under a supreme command on the India—Pakistan frontier in the west. It was one of the great tragic decisions we took, largely buying that time in the necessities of the situation. I do not think either of our countries had made a more sad decision because as a result of that came the great slaughter of 1947 with respect to which my Prime Minister decided to dissolve the force.

The first statement was made by the representative of the United Kingdom for whom we have very great respect. With his country we had relations of one kind

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and we have relations of another kind today. Those relations have been strained considerably by the British adventure in the Middle East and now their adventure in regard to Kashmir but, so far as we are concerned, we would do our best not to allow these individual actions on the part of the United Kingdom Government—not of its people, fortunately—to come in the way of more substantial relations that should exist between our countries. But I would be doing no service to this Council or indeed to the United Kingdom or to very many friends that we have there and with whom we have been in such close relationship, if I did not indicate to them the enormous, deep and very vehement feelings in India at the present time in regard to the United Kingdom. The United Kingdom might easily retaliate by saying: We felt somewhat like that when you took a certain position in another matter. Of course, that is one way of looking at it.

Sir Pierson Dixon, after tracing the history of this matter, said that finally, after failure of various missions, to which I shall come back in a minute, including that of Dr. Graham, whose absence from this table my delegation regrets—even though there is nothing very much in Dr. Graham's report that assists the statement of the position that we made, because he did not examine that—the breakdown of direct negotiations was due to extraneous causes. We had, during the course of this debate, largely because of our concern about Indo-American relations and in order to avoid introducing issues of cold war outside the Kashmir question and, what is more, in the hope that the present lapse from fortitude and wisdom in this matter is temporary, not referred to them but "the extraneous consideration" to which Sir Pierson Dixon refers is the military agreement between the United States and Pakistan.

Our views on this matter are very well known and there is no doubt—and again one must state facts of the case—that the added military strength of Pakistan by the supply of very considerable quantities of war material to that country, of which we have some knowledge, has certainly altered the situation. But it would be equally wrong to say that that only changed the condition, or, indeed, the reason for direct talks between Mr. Mohammed Ali, the former Prime Minister of Pakistan, and afterwards someone else, and my Prime Minister was due to this one fact alone. It did weigh considerably. There is no doubt about it. What is more, we, at that time, said hat in relation to Kashmir we could not consider the United States as being neutral and for that reason and with utmost politeness we suggested that the observers of the United States nationality were not the best people to serve on the cease-fire line.

They responded with equal politeness and we resolved that situation as between two countries who have no desire to exaggerate a difficulty.

I regret that this matter has come up because I have been at great pains to avoid this, but it was referred to by a close ally of the United States and it is not my practice to run away from any argument that has been put forward. So that is that. So this extraneous relationship, if it is one of factors, was not a factor that broke it down.

Sir Pierson Dixon made other statements. I picked out that speech because that is the keynote speech, as they call it in this country. Other speeches follow, more or less on that line with the exception of a speech from Colombia; that is, they lay stress on what is called demilitarization. This word "demilitarization" for this purpose must be interpreted with the connotation that it has derived through the years by negotiation.

In spite of the Security Council having heard my voice for so long, perhaps, members would be so kind, even if they did not read one per cent of the papers before them, which is impossible because there is so much of it, as to at least refer to these resolutions and point out to me any place where there is a reference to demilitarization. Demilitarization is a phase and a problem as it is now pinpointed, which arose

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as one of the methods for creating conditions under Part II of the agreement of 13 August. It is very important for us to refer to this in view of other suggestions in the resolution. The whole of the picture is sought to be covered by demilitarization but we are prepared to face this in this way.

When either the United States or the United Kingdom speaks to us about the importance of demilitarization they have to take into account certain factors. In Kashmir, which the legitimate Government of Kashmir administers, there are units of the Indian Army. I want to explain this. The Indian Army in Kashmir is not a foreign army any more than we have a foreign army in Bombay. Kashmiris pay for it like everybody else. That is, certain units of the army of the Indian Union are in the constituent State of Kashmir. They are easily identifiable. They have no uniforms that are not army uniforms. Their divisions and their numbers are well known. In addition to this we have in Kashmir approximately 6,000 men belonging to the Kashmir Militia. These are published figures, or if they are not, I shall publish them and I take the responsibility for doing so. There are 6,000 men who belong to the Kashmir Militia, who are a kind of territorial force, a State force largely of an armed police character intended for internal security and the like. That is the total strength of our military position in Kashmir, far below what it was at the time of the cease-fire.

On the other side, according to our information, which normally in reliable, in regard to Pakistan military dispositions, there are 45 battalions of the Azad Kashmir forces. There were 35 at the time of cease-fire. Now, there are 45 battalions of the Azad Kashmir forces, officered by men of the Pakistan Army. If the Security Council has any doubt about it we shall some day be willing to furnish you their names, their ranks and their particulars from available sources. They are officered, trained and equipped by the Pakistan Army. They are well-trained soldiers. There are artillery regiments, cavalry, tank corps and so on. There were 35 and now there are approximately 45 battalions of these troops. In addition, as Mr. Firoz Khan Noon admitted the other day by implication, Pakistan Army itself is there, because he said he would withdraw it, and you cannot withdraw what is not there. Therefore, in addition there is the Pakistan Army itself. When we speak about demilitarization we have to think of this military element and what is demilitarizable.

Add to that two other factors. There are commandos that are being trained of which there are 800 in school at any time. When they are finished, they are thrown back into the population. They are another military element in the situation just across our border mainly in the population. This is not in the whole of the Pakistan-occupied area because over the whole of the Pakistan-occupied area, in Giligit, Baltistan and so on these factors do not apply so much but in this small area where they have half a million people.

In addition to that, as I pointed out the other day, there is today an army in Pakistan which is out of proportion to the relations established at the time of partition. They have well over 200,000 men equipped not only with normal equipment that comes from the United Kingdom under the usual purchase arrangements but with considerable supply of military material that comes from the United States in pursuance of military agreements which are not directed against us, so far as the United States is concerned—and we accept that situation so far as the United States is concerned. They are within very short distances of our frontier. I gave the Security Council mileages the other day.

Therefore, when we speak about demilitarization we must take all these elements into consideration and set them side by side with two other factors. You, gentlemen, here representing Member States are not merely concerned about passing resolutions but about their vast social, political and

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world consequences. Let us set these factors side by side with two others.

One of these constitutes the remarks made by the representative of Pakistan outside his printed text when he first spoke here. He stated :

Here I would like to say that it is sometimes argued by India that everything is peaceful, so why bother about Kashmir? I warn you (Krishna Menon : He warns the Security Council) that is a calm before the storm. Everything is not peaceful. We have just seen a telegram which states that on 11 January our Minister for Information, Mr. Amir Azam Khan made a statement in Karachi that Indians have massed their troops on our border. (Krishna Menon : A statement which I contradicted the other day). (S/PV.761 pages 34-35).

The representative of Pakistan then went on to say : "Please do not be misled by the fact that we are peaceful, that we want a peaceful solution".

This is exactly the pattern and there may be those who remember this fact that occured in 1947. We were told : "Wolf, wolf," at that time, "it is coming, it is coming, after all we cannot stop them". And then they came and the Pakistan Army came afterwards.

The *Daily Telegraph* of London—a paper which is not friendly to India—carried on 11 February an interview with Sardar Abdul Qaiyum Khan, who is the head of the "Azad Government". I shall not read the whole of the interview but this is part of what he said :

It is coming to a fight in Kashmir (Krishna Menon : This is issued not from "Azad Kashmir" but from the Ministry of Kashmir Affairs in Karachi) whether people like it or not. We have no alternative left and I told the Pakistan Government this. I had expected that we should be fighting by December or January but certain factors intervened. (Krishna Menon : The fact of the United States elections, and therefore the Security Council was put off). I now think it is certain there will be fighting this year, perhaps, even in a few weeks. (Krishna Menon : When the correspondent raised the plebiscite issue, the President said:) The recent Security Council resolution was encouraging politically (Krishna Menon : That is also borne out by the testimonial to the United Kingdom Government by the Pakistan Prime Minister to which I shall refer in a moment), but Kashmirs want to see some results at last, if not by diplomacy, then by war. India will never agree to a free plebiscite. India has occupied most of Kashmir and has poured money into its organization. She knew that Kashmiris, in a free vote, would never opt for India so Nehru would be crazy to agree to a plebiscite. and I do not think he is crazy. (Krishna Menon: That is the only part of it that is true. He continued:) It will be the people's war: we know our country. In Kashmir we can give Indians hell. We are much better equipped (Krishna Menon: This is another truthful fact) now than in the former fighting when we often had not more than five rounds per man.

The President went on to point out that "Azad Kashmir" was not a party to the cease-fire agreement—this again is the pattern of 1947—and, therefore. was not bound by it. He said :

If the United Nations would leave the matter in the hands of Azad Kashmir fighting men for just a few weeks the question would be solved. Nehru only understands that kind of language. He would come running to the United Nations begging them to intervene on his behalf. We can turn both flanks of the Indians.

This is only a sample of what is going on. I want to report to the Security Council, in all conscience, that in the course of this vast election campaign that is going on in India where we are addressing, as I stated the other day, an electorate of 200 million people, all this has been injected. I state to the Security Council, in all conscience, that efforts of our leaders at the present moment are to exercise restraint upon the people so that they should not become inflamed. I could quote to the Council, if there was time, speeches made by the Prime Minister in this connection when he said that if misfortune should befall us by way of an attack we shall meet it with fortitude and calm but there was no need to get excited.

Normally, this does not very much matter but we had a dress rehearsal of it and we had a performance afterwards so that this is a repeat performance. When the Security Council passes resolutions which have the effect of unsettling events—unsettling events in Pakistan, in the occupied areas and in

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Jammu and Kashmir and in the whole of India—then it takes upon itself the responsibility which fortunately for itself it will not have to shoulder while the people of India will have to shoulder it. I hope that my good friend, General Carlos Romulo, the representative of the Philippines, will not say that I was admonishing the Council. I shall come to that in a moment.

That is the background of what my colleague refers to as decrease in tension. Unless this is measured in reverse terms with the whole thermometer upside down I do not see how this can mean decrease in tension. There is decrease in tension between Pakistan and India in certain other matters, particularly, between Eastern Pakistan and India, in respect of which we have concluded trade agreements and where the population is less inflamed by these matters. Therefore, when we speak about demilitarization and decrease in tension these matters have to be understood.

While I am on this point I might deal with one other matter because my Government is very anxious and very concerned that no statement of ours or any errors of omission or commission should afterwards be charged up to us as a commitment. We have suffered by moderation. We have suffered by reasonableness in our proceedings before this Council. Every time we have considered a hypothetical proposition and every time we have agreed to embark upon an exploration it has been charged up against us as a commitment. Therefore, I want to say here and now that whatever mathematical calculations were made with regard to 6,000 or 3,000 or 12,000 or 21,000 in various previous negotiations, they no longer hold true because no offer that is not accepted is a binding contract either in the case of individuals or in the case of nations. Otherwise we should have a number of floating commitments and no country would know where it stood. In the course of long negotiations all kinds of offers are made. If the Secretary-General were to be committed to many suggestions which he must have made in the past 60 days then we would be in an awkward position. The same thing is true with respect to a government.

Therefore, I want to say here and now, Mr. President, that if you were to go to India or if anyone else were to go it would be no use telling us that we agreed to this and that at the time and that "now, therefore, you are committed to it". We agree to nothing—we discuss all these proposals. They must all be considered as with any problem in the context of time—we agree to things to which we are parties.

That brings me to the next proposition put forward by the representative of the United Kingdom. He said quite rightly that it is common ground between Pakistan and India that the only obligations appearing in this matter are the resolutions of 13 August 1948 and 5 January 1949. But Sir Pierson Dixon would feel flattered by the fact that I was educated in a system for which he has very great appreciation and, therefore, I take care to be precise in language. I said that the only obligations we "had" undertaken—and although English is rather sparse in grammar, it does have tenses—were these two resolutions. It is quite true that my distinguished colleague said the other way. I do not say that his language is more precise but he has more friends around this Council than I have and, therefore, he does not have to be so much forewarned. And I suppose that General Romulo would say that I am by nature suspicious. Of course, he is wrong.

At any rate we say that these resolutions of 13 August 1948 and 5 January 1949 are our only engagements—and I use the word "engagements" very deliberately. I said that they could be elevated to the form of treaties if they were formal. But what we said was that the only international engagements are the two UNCIP resolutions—and this is recounting history at the present time. I do not object to the statement made by the distinguished representative but it bears the inference that this stands by itself, without any further progress in that matter or any past history

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Those engagements have to be understood in the context of all that was said at that time. That becomes necessary because someone is likely to say: "Well, here are these resolutions. It is quite true that you did not get anywhere with them. Why do not we start on them tomorrow morning? Well, tomorrow is Saturday and on Sunday we go to church; so we will start on Monday."

That would not work because you have to take all surrounding circumstances into account. And that is why it is necessary to repeat very briefly the fact that the position of the Government of India, as stated the other day by the Prime Minister in a speech at Allahabad, is that Pakistan is in violation of the cease-fire agreement. That is a far more grievous charge and we make that deliberately: that Pakistan has violated the cease-fire agreement by introduction of military personnel and materials into its area and by the annexation of territory. And, therefore, when the first part of it stands violated the consideration of the second part becomes very very subsequent. That is very bad English—but it becomes very subsequent. Therefore, the observation made by the representative of the United Kingdom must be taken in the context, first of all, of the explanations that I submitted on behalf of my Government and the fact that, since the conclusion of that agreement, there have been violations of the first part by the accentuation of forces on the other side of the cease-fire line and by the assimilation of territory.

The President of the Council is, what might be called, an example of the European neutral. I would ask him, in all conscience, since I am entitled to address a question to the President: How is it that when the Constituent Assembly of Kashmir, under our constitutional procedures and using only pen and not sword, working over a period a five or six years and proceeding from a legal instrument about which you all say you are neutral—nobody has challenged it so far—writes a constiution which does not alter any of the physical facts, that is called annexation, whereas the eleven members around this table never turned around and asked the Pakistan delegation under what title its Government annexed these territories of 42,400 square miles? The latter was barefaced annexation.

Here I propose to cite to you assurances, documents and statements made in the Security Council, time after time, that the sovereignty of the Jammu and Kashmir Government remains inviolate and that neither the Commission nor the Council will do anything to alter it.

That leads me to the third point. Sir Pierson Dixon referred to engagements. He is a friend of mine and I am sure he will forgive me for centering the argument around him; in a sense it is an expression of great esteem. I said the other day that this engagement bound our two countries. Since this is probably my last main intervention during this episode of the discussion of this item I should like to say that there are three parties in this.

The Security Council is a party to this resolution and we, of the Government of India, have the privilege and the right to ask the Security Council what it is going to do about the violation of Part I. You are very quick in passing resolutions about the Constituent Assembly and being misled into acceptance of what was put out in a "crisis atmosphere". How is it that no question has been asked by the eleven nations represented round this table—I ask this question only because my people will ask and because the Security Council does not represent only these eleven countries but, as we understand it, all the Member States of the United Nations—about this apparent, gross, obvious, continuous, persistent and flagrant violation of the cease-fire agreement, of international law, of commitments contained in the Security Council resolutions and Commission resolutions and solemn undertakings given by your representatives to our Government which are in writing and have been made public? The shoe is on the other foot. That is to say, annexation is on the other side.

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The Security Council would be justified in asking us why we have not requested a meeting in order to complain about this annexation. The answer is two-fold. My Government proceeds on the basis that this problem—and that is what it is; it is not a dispute—is one of extreme complexity which involves India-Pakistan relations and various other world factors. The solution of it which was supposed to be proximate to 1 January 1949 is still far from being at hand. We consider that we have a duty not to reagitate matters and, therefore, we have let sleeping dogs lie, so far as the actual state of affairs is concerned, without in any way permitting the Security Council or anyone else to obtain our assent—and it is repeated so many times—to any change or alteration in the status of this territory.

The representative of Colombia has referred to these matters. He probably has first-hand knowledge of the question because some of these assurances were given by Mr. Lozano. The Secretary-General has an easy way of ascertaining the facts in this connection because some of the members of the Commission staff at that time are still members of the Secretariat here.

These assurances are not hanging in the air; they are part of the resolutions. I deal with them more specifically today in view of the observations of the representative of Colombia.

To place demilitarization in the centre of the present draft resolution is, in our opinion, a misreading of the entire situation. It is this aspect which has bedevilled the question since the time of General McNaughton. It is a matter of great regret to us that suggestions made in a spirit of goodwill by two persons from countries which are members of our Commonwealth should have been *ultra vires* of every decision and principles of the Security Council.

Sir Owen Dixon is a distinguished judge; he is now Chief Justice of Australia. With great respect I must say that Sir Owen Dixon seems to have approached this problem as though Kashmir were the Australian bush of 200 years ago—and if Mr. Walker objects to that idiom, if it is one, I shall withdraw it—as though Kashmir belonged to no one and, therefore, the United Nations Government or some other Government could be set up in gross violation of the Security Council's express commitment.

My Government is entitled to ask this question: Why is it when we have committed no violations whatsoever that there is all this unanimity about impending violations? The Security Council itself—a party to this agreement—is remiss in not drawing the other party's attention to violations; the Security Council is remiss in not asking for the withdrawal of the other party from that area; the Security Council's representatives make proposals to us which are in gross violation of the commitments. Why is there no unanimity about these violations? In fact we would not have discussed the 13 August resolution if there had been any suggestion that the sovereignty of the Jammu and Kashmir Government and India's competence as regards the defence of its frontiers—which are on the western and northern side of Kashmir—were in question.

I do not know whether the Security Council wishes me to go on citing these documents. Documents are before the Council as I have said time and time again.

Mr. Korbel, the Czechoslovak representative who was Chairman of the Commission in August 1948, said that the sovereignty of the territory was not to be changed. In a letter which the Prime Minister of India sent to Mr. Korbel on 20 August 1948, the Prime Minister wrote:

> If I understood you (Mr. Korbel) correctly, A 3 of Part II of the resolution does not envisage creation of any of the conditions to which we have objected in paragraph 3(1) of this letter. In fact you made it clear that the Commission was not competent to recognise the sovereignty of any authority over the evacuated areas other than that of the Jammu and Kashmir Government.[1]

[1] S/1100, paragraph 78.

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Now, there was only one Jammu and Kashmir Government then and there is only one Jammu and Kashmir Government now. I ask the representative of Cuba who is so attached to the idea of sovereignty and freedom from intervention in internal affairs, how he reconciles that position with this one in respect of Kashmir.

In reply to the above-mentioned letter, Mr. Korbel wrote to the Prime Minister of India as follows:

The Commission requests me to convey to Your Excellency its view that the interpretation of the resolution as expressed in paragraph 4 of your letter coincides with its own interpretation.[1]

In a letter dated 16 April 1949, the Vice-Chairman of the Commission who, I believe was a United States citizen, wrote:

It has consistently been the view of the Commission as well as the Security Council that, pending determination of the will of the people as regards the accession of the State to India or Pakistan, neither body (Krishna Menon: And this means neither the Security Council nor the Commission, not India or Pakistan) will recognize any new sovereignty in the State. To do so would constitute a prejudgement of the will of the people.[2]

I read out all these documents because they have a relation to the draft resolution sponsored by the United States and the United Kingdom. They have a relation to the violation of our municipal law and the principles of law of those two countries—and this particularly concerns the representative of the United Kingdom, for it is from the United Kingdom that we claim the heritage of this law. What is more, they have a relation to the violation of international law—and I shall return to this aspect in a moment.

I should like now to read out the following excerpt from the Commission's Third Interim Report:

The territory evacuated by Pakistan troops will be administered by local authorities (Krishna Menon: And the expression "local authorities" is intended to mean persons who are not a Government, who are operating in the area *de facto*) under the surveillance of the Commission and without prejudice to the sovereignty of the State[1].

Hence, there can be neither a Pakistan, nor an "Azad", nor a Gilgit Government, nor any other government in this area. The other day I read out to the Council the Commission's agreement that we were entitled to station garrisons there for the protection of trade routes from the North and North-West. I continue to quote from the Commission's Third Interim Report:

These provisions are without prejudice to the territorial integrity (Krishna Menon: And when part of the country has been annexed that is certainly a violation of territorial integrity) and the sovereignty of the State of Jammu and Kashmir.[2]

I could go on quoting from these documents—and there are so many of them.

In the Security Council, General McNaughton—who, I believe, was President of the Council at the time of which I am speaking—approached this problem as though this territory really did not belong to anyone, as though the two parties were fighting over it; he tried to place us both on an equal status. Mr. B. N. Rau, who was then a member of the Security Council, wrote the following to Gen. McNaughton in this connection:

It has been admitted all along that the sovereignty of the Jammu and Kashmir State should be accepted over the whole area of the State (Krishna Menon: That is a statement of our position). If Pakistan irregular forces such as Gilgit or Baltistan scouts remain in the northern area, the sovereignty of the State will be violated militarily.

This again is a point which has an immediate bearing on the suggestion made by the United States and the United Kingdom. I continue to quote:

Further, if as suggested, the administration of this area is to remain in the hands of the existing local authorities which have been created by Pakistan and are aided by Pakistan officials, the sovereignty of the Jammu and Kashmir State in this area will be equally violated in the administrative field.

[1] S/1100. paragraph 79.
[2] S/1430/Addendum 1, Annex 19.

[1] S/1430/Add. 1. Annex 17, Appendix.
[2] Ibid:

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That was said in reply to General McNaughton's suggestion for the creation of a new situation disregarding the basis of procedures.

Members of the Council will thus be able to understand why the Government of India has to be extremely wary. A suggestion is put to us and we are told: "No, you are not asked to accept it, you are only asked to look at it". But the next day we shall be told: "You looked at it and you did not think it was a profanity to do so; if it is not profane then it must be sacred and, therefore, it is binding on you". That is the kind of argument that we have heard.

Mr. B. N. Rau also said the following with regard to the question of sovereignty:

> ...accession does not mean dissolution: the acceding State remains intact and fully sovereign in its own field even after the accession; it continues as a single unit. If, therefore, a plebiscite is to be held for the State as a whole, if the State is to accede as a whole, it must not be disrupted beforehand.[1]

I turn now to the memorandum which the representative of India transmitted to the United Nations representative—Mr. Graham who is the most recent incumbent of this office—on 11 September 1952. I allude to this later period in order to show that this is not old history. In that memorandum the representative of India said that the Government's position was the following:

> The administration of this area would under paragraph 3 of Part II of the resolution of 13 August 1948 vest in local authorities to be established or recognised for the purpose; to these local authorities, under the same resolution, only local administrative functions have been assigned... To give them any armed force equivalent to troops would not be consistent either with their status or with their functions and would be a violation of the sovereignty of the Union of India and the Jammu and Kashmir State. In the very nature of things, therefore, these local authorities can be entrusted only with civil armed force[2].

In a letter to Mr. Graham, dated 17 February 1953, we stated:

> The Government of India are unable to agree to the retention of any military forces in the so-called Azad Kashmir territory. Not only would this be contrary to the assurance given by UNCIP to India (Krishna Menon: And I contend that every assurance given by UNCIP to India is an assurance given by the Security Council to the Government of India) that the resolution of 13 August should not be interpreted or applied in practice so as to bring into question the sovereignty of the Jammu and Kashmir Government over the portion of their territory evacuated by Pakistan troops...[1]

Of course, evacuation never took place. That is the position with regard to sovereignty. The observation that I shall now make has relation to the whole conception which is now sponsored by the United States and the United Kingdom in regard to the United Nations forces. There are also other matters connected with it.

My distinguished friend, Ambassador Lodge, has told us that we are only being asked to consider this idea of the United Nations forces, but it is not right to ask a sovereign government to consider something that is against international law, against its own sovereign rights, and in violation of the agreement with the Security Council. It is unethical, inequitable and, what is more, it would not lead to a settlement. I am afraid that Mr. Lodge made a slip when in explaining the draft resolution, he used the words "specifically the United Nations force", so that it was not just one of those things that are innocent. He said that the core of this draft resolution was the United Nations force and, Mr. Lodge being a man of, if I may say so with great respect, great simplicity of mind and frankness and candour of expression, let this out. No doubt his speech had been very carefully looked into and the words had been put there. Since in a year from now these words may be quoted against us, I do not want to make any mistake of my not having something to show to you about that.

The United States representative has addressed a request to the Government of India to receive the President of the Security Council very cordially. We appreciate this

[1] S/PV. 463, Page 12.

[2] S/2783, and Corr. 1, Annex 5.

[1] S/2967, Annex 4, para 2.

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request and accept it in the spirit in which it is made, but as he said a while ago, so far as hospitality is concerned, the present President is almost half a native of India. I do not mean this in a disrespectful way; you are always welcome.

In the statement of the representative of the United States—perhaps I might make this general—there is no reference whatsoever to the people on the other side. My colleague from Cuba has spoken about rights, about self-determination, about people and about all those things that we value, but why is it we have not heard the voice of Cuba in connection with the freedom of the people who are under suppression and tyranny of the Pakistan authorities on the other side of our cease-fire line? Why is it that we have not heard that in ten years these people have not seen a ballot paper? Why is it that they are streaming into our part of the territory? Why is it that they are under conditions of economic degradation? Why is it that when the Five-Year Plan is making vast strides in the State of Jammu and Kashmir, there is no such thing at all or even a semblance of it anywhere in the Pakistan-occupied area? Why is it that there are still wild tracts? What is more, why is it that the very men who are accredited representatives of the organizations of this area make representations to the Pakistan Constituent Assembly and say: "We are but helots, we are but slaves, we have no voice in our own country"? With what voice can either the Security Council or any one coming before it demand a plebiscite for people on our side who exercise their franchise, who have freedom of speech, who function under scores of local bodies, who have freedom of discussion, who have newspapers, who have economic development? With what voice, with what strength of argument can they come before the Security Council and ask about freedom of choice for those people who have no freedom at all? We say that Part I of the resolution of 13 August stands violated and, therefore, they have no voice at all. It is my bounden duty to request the Security Council—not, my friend from the Philippines, to admonish—to give me an answer to these questions.

Our people are dedicated to the Charter. Their emotional reactions, as the Secretary-General will bear witness—I am not making him a party to our dispute—are dedicated to the Charter. They feel that here everything works in terms of justice, equity and fair-play. How is it that in all these nine years of discussions no one has asked these questions? All argument has been about people who have rights asking us—and that is putting it at its best—why do not they have more. In other words if there were a plebiscite when conditions are satisfied, when it will not create an upset, and when the security of India is not in danger, if we are, by lack of conditions that are necessary for a fair settlement, put into a position of handing these unfortunate men who have exercised their freedom into a helotry that prevails on the other side, then we should be guilty of a sin against the Charter. Now, that is the United Kingdom statement.

My colleague from Australia later reminded us of very valid examples, as he described them, and very salutary examples. He said that we had recently had a case where we sent out a United Nations force. It is my recollection, although I may be wrong, that the representative of Australia did not support that proposition at the time but that is by the way. It is misleading and it is unfair to us, at any rate, whatever you may think of it yourself, to draw an analogy between the United Nations Emergency Force, in which we participate and which is in Egypt, and any suggestion of the kind that is now being made. In one case the territory of Egypt was invaded by France, the United Kingdom and Israel and there was no question of having to find out about the invasion. Nobody ever denied that it was an invasion, and the purposes of this force were two-fold and my Government has insisted that these purposes should remain two-fold. The purposes of this force are described in para-

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graph 12 of the Document A/3302, Report of the Secretary-General on the plan for an Emergency United Nations Force. In that paragraph, it is stated that their functions are to supervise a cease-fire and to supervise withdrawal. Is anybody suggesting that a United Nations Force should go into the Pakistan-occupied areas in order to supervise their misdoings or to stop their misdoings and to supervise their withdrawal and then to go away? That is not the idea at all.

Therefore, it is not possible to draw an analogy between the two cases. In one case, the Force had to go to the defence of those who were aggressed against and in the other case it would go to stand by the aggressor. As Sir Pierson Dixon, with the candour we expect of him, has pointed out, that is what Pakistan had asked for and that has been espoused. Therefore, any attempt to draw this parallel is, in my humble submission, a challenge to the political intelligence of Member States of the United Nations because the analogy bears no relation to facts whatsoever. As film writers would say, such resemblances as there may be are purely coincidental. Therefore, do not let us draw this analogy which comes ill from the representative of Australia who initially refused to have anything to do with this business of sending a force to Egypt in order to implement the purposes of the Charter. I will come back to this and say where we stand with regard to the Charter.

We agree, in the main, with what has been said by the representative of Colombia who had the advantage of having one of his countrymen on the Commission, who spent hours and hours with the heads of Government and high officials both in Pakistan and in India.

We have circulated documents for your information and we hope that you have read them. We hope that if you have not yet read them you will read them in the future. If I may say so with respect, I would not feel any sense of umbrage if people did not read them fully because I myself find it difficult to get from one end of these documents to the other, but a reading of them is necessary. The representative of Cuba started from a basic problem that was worthy of the great philosopher, Rousseau, about sovereign will of the people. He then went into history and if I may say so, he misunderstood what I said in the Security Council, but that may have been my fault. I said that the capital of Kashmir, Srinagar, was founded 2,300 years ago. I did not say at that time that through the millennia this was a separate State. Actually, the history of Kashmir goes back to 5,000 years before the Christian era.

It comes into more modern history in the Buddhistic period. After a short period of Buddhist rule, a succession of Hindu dynasties ruled in Kashmir until the end of the 12th Century. Then it came under Moslem rule and was subsequently reconquered by a Moslem Emperor, Akbar of India, and became part of the Indian Empire. For 63 years, on account of a row with the English, the Afghans then occupied it. There were difficulties between the Afghans and the British at various times but not now—they are very good friends, and we are happy they are. There are only few episodes in the long history of Kashmir when it had been outside of the mainland of India. My colleague from Pakistan the other day refuted the purchase of Kashmir, and I gave the answer to it.

The Cuban argument is that accession by the King is not acceptable. With great respect to his legal knowledge which is very considerable, so far as I am concerned—I mean the respect—no other accession would have been valid and I call as witness the representative of the United Kingdom or his legal experts. Even if four and a half million people in Kashmir had signed a memorandum saying "we accede" on that day of 1947, that accession would not be worth the paper it was written on. It

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might have political value. It has political value, it has social value.

The British Parliament laid down that accession was to be by the King. This does not mean that we could trick a king into giving an accession against the will of the people. If that is the argument that is in the Cuban mind, then I think it is a valid argument and I humbly refer him to the answer I made to the Pakistan Foreign Minister in regard to the allegation of fraud. Therefore, there is no question that over and above that, the first thing we did was to seek, and in the end, obtain the consent of the only national movement there was, which for 25 years had resisted the Maharajah's rule, and they agreed, and they are the Government today. We agree with the representative of Cuba that we must honour the commitments but we equally submit that the Security Council has an obligation to honour the commitments and commitments are what are in the documents and what is in the spirit of those documents, in all the surrounding circumstances.

That takes me to the question of plebiscite which has been referred to constantly. It appears to me to be comparatively simple. This document of 13 August 1948 was adopted by the Commission at its 40th meeting. I want to submit to you as responsible members, representing Member States, that just because a word appears in a document or a resolution and it is repeated a million times over, it does not add to its legal, political, moral or other values. It is quite true that we have talked about plebiscite, but what is the place of it in this document? I have read this many times but I will read it again. Part III reads:

> The Government of India and the Government of Pakistan reaffirm their wish (Krishna Menon: Not their resolve, not their commitment, but their wish) that the future status of the State of Jammu and Kashmir shall be determined in accordance with the will of the people and to that end upon the acceptance of the truce agreement....[1]

Here my colleague from the Philippines comes in. "Upon acceptance of the truce agreement both Governments agree--". Agree to what? They agree "to enter into consultations with the Commission to determine fair and equitable conditions".

We did not say that when you take a plebiscite we would enter into consultations after it is over. Perhaps, it was our mistake that we entered into consultation before because we thought we were going very, very fast. It may be a lesson for the future but I submit it is not a reason for misunderstanding the position of my Government in regard to international commitments. We agree "upon acceptance of truce agreement....to enter into consultations with the Commission." What for? To determine "fair and equitable conditions." Now, how about this propaganda which has been going on for the last seven or eight years and which shows no sign of abatement and, what is more—it is not only aided and abetted—which is inspired by responsible leaders and members of the Government of Pakistan, which is part of their national policy. In those circumstances I submit to you that we had to create conditions, that is, the first conditions necessary.

A plebiscite is a peaceful process, and you cannot force this peaceful process. It is like some people using the machinery of democracy in order to destroy it. So, similarly, the word "plebiscite" embodies the great idea of self-determination and it simply is not to be misinterpreted. We stand by Part III of August 13 Resolution. Two Parts of it have not been satisfied. Our undertaking is to confer in order to find "fair and equitable conditions." Are conditions equitable when there is a campaign of hatred? Are conditions equitable when the Pakistan Government, both privately and openly, says that the purpose of their military programme with the United States

[1] S/1430, Page 28.

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is in order to arm against India? If I am challenged on this, I will produce evidence. That is with regard to plebiscite. So I say with great respect to my friend from Cuba that we are not running away from any conception. But I submit that it is wrong, that it is against international law, that it is against commitments of this organization, that it is against any possibility of the Charter being respected and that it is a violation of the dignity and the worth of those people who believe in the United Nations, to say that just because these words appear somewhere, that that is, therefore, a contract. That would be like my colleague, the other day, who accused some little Moslem boy of quoting Koran only in one part. That is the position of the plebiscite.

I have been asked why we take up one position in regard to Algeria and another in regard to Kashmir. First of all, in regard to Kashmir, conditions have been laid down here, a whole plan has been laid down here. We agreed to the principles. By the way, Sir Pierson Dixon also referred to the resolution of 5 January. I should like to refresh his memory. It refers to the principles on which a plebiscite has to be carried out—if Parts I and II of the resolution of 13 August operate. After Part I and Part II, then Part III begins to function by negotiation. When that is all ready, then there is a plan on the chess board. You cannot start from the other end. That is how things are.

With regard to Algeria, there has been a conquest and that is not denied by anybody. I do not want to go outside the realm of this discussion but I did not raise this question. There was a conquest and there was a national movement to replace that conquest. There is no such thing in Kashmir. I told you the other day that the best evidence and the most convincing argument before the Council, irrespective of all legal doctrine, would have been if the marauders that came into Kashmir and, later the Pakistan Army, had been welcomed as liberators by the people. They were not. They committed rapine and plunder and there was no question of religion because Christians and Moslems were equally sufferers. They were not welcomed as liberators by the local population. So, when the representative of Iraq refers to the great brotherhood, he must take this into account. We are also part of a greater brotherhood, namely, the human brotherhood and, therefore, it is not as though the two things are on a par. There may be a great deal of argument in favour of not implementing self-determination in Algeria or implementing it. That is another matter. But the two things are not on all fours.

In regard to the Cuban statement, there is one other matter which I want to dispose of and that is the reference to my Prime Minister. I have, both for reasons of propriety and political reasons, an obligation to put everybody right on this matter.

There were two suggestions, one of which I answered at the last meeting, apparently without carrying conviction. One was a telegram sent by the Prime Minister early in October 1947 to Mr. Liaquat Ali, of whom he was an intimate friend, suggesting that the two countries should together come before the Security Council and that the matter should be settled by a plebiscite by the United Nations and so on. This was long before there was any proof that the Pakistan Army was invading. That was at the time when Pakistan was denying that there was complicity on its part. That was at the time when we had just parted company a few days ago; and I pointed out that, so far as political and documentary part of it was concerned, whatever might have been those commitments, if they had been accepted, they became commitments; if they were not accepted, they were not even escrows; they had lapsed and, therefore, we started from the Security Council because the letter of 22 December 1947 from my Prime Minister to Mr. Liaquat Ali said that nothing had happened and, therefore, we proposed to

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take our remedy under the Charter. And we came here and said: "We are invaded. In order to protect ourselves we may have to invade Pakistan. We do not want to do so; therefore, please stop them from doing that." Therefore, there is no declaration of that kind. The second declaration is one to which the Cuban representative has kindly given authority. It comes from an organ called the United Press of America which is not run by the Indian Government and we have no responsibility for its policy. It was a message that came on 6 February 1957 from Allahabad in which, according to the report, Mr. Nehru listed the following conditions for agreeing to a plebiscite:

> Withdrawal of Pakistan troops from occupied-Kashmir; the legal government of Kashmir must take over the entire State.

I believe that this message came into the United Nations between four and five o'clock. Between five and six o'clock, thanks to the reputable agency, Reuters, we got another version of it which has been published all over the world and which we have not contradicted, and this was what the Prime Minister said:

> We have been charged in certain quarters (Krishna Menon: That is over here) with having backed out of our commitment to hold a plebiscite in Kashmir. I would like to draw the attention of those who are making this charge against us to the prerequisite condition of a plebiscite. The condition was that Pakistan would withdraw her forces from that part of Kashmir which it occupies. Has Pakistan fulfilled that condition? A grave injustice has been done to India on Kashmir. The basic point that Pakistan committed aggression in Kashmir has been ignored altogether. (Krishna Menon: And representatives around this table have done it this morning). Kashmir has made tremendous progress in the last nine years and no steps should be taken which would disturb the peace of that State.

Outside of all controversy, I ask the Council to believe that that is our overwhelming concern about reagitation of a situation which can lead to a civil war all the way round and conflicts of a character which I shall describe in a moment. In view of the time I shall try to make the remainder of my observations very brief.

Mr. Romulo said that I "had admonished" the Security Council. Normally speaking, I would let this pass but it is not something which I wish to leave on record, coming from a distinguished personality who occupied the chair at that time. I believe this rises from the fact that he was listening to a very long speech and, like everybody else, sometimes he gets tired of it.

What did I say? I said that our basic position was aggression. Our basic position is the complaint that we brought forth here on 1 January 1948. From that we have never moved. From that we did not move when we came here in those days, not with General McNaughton, not with Sir Owen Dixon, not with Mr. Graham, not with you, not with anybody in the world. That position we have never moved from. But I went on to say that, at the same time, representatives of States, members of the Security Council calling me before them could not just regard themselves as Rip Van Winkles, as though nothing had happened here in nine years. That is to say, I was saying that in spite of that basic position, I had responsibility to address myself to this draft resolution. That puts a totally different complexion upon my admonition. Do I look like a kind of person who would admonish this august body? I leave it to the Council to judge.

We have great confidence, in spite of the present attitude of the Security Council, that when these facts become more and more known— and that is why we keep on bringing the Council's attention to them—representatives will begin to have doubts in that matter.

Now we come to the draft resolution itself. There were two suggestions made by the President in his capacity as representative of Sweden. I have not referred to the observations made by the representative of Iraq except to say that the presentation he has made does not represent facts of the situation. It ignores circumstances but, at

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the same time, I pay tribute and express my appreciation of his desire to be kindly on the side on which he is not neutral; that is all I can say. One must stick to the truth even when one wants to be polite.

The representative of Sweden, who is the President, speaking here said:

> As we see it, there are, in principle, two courses open to us along which progress may be made towards the ultimate goal which it seems to us must be an agreement between the parties on a political basis...

This is a matter which I shall have to deal with when I come to the basic position of the Security Council under the terms of the Charter and particularly Chapter 6. There is no settlement in this matter that is possible except by agreement between the parties; and, so far as my Government is concerned, we have done everything we can up till now—but I said "up till now"; we have not written the end of the history. We have made a solemn declaration and we repeat it that we shall, at no time on any issue however much it may be against us, refuse to negotiate, refuse to seek conciliation, but we cannot be called upon to surrender our sovereignty beforehand and we cannot be called upon by the Security Council to forgo the charge of aggression upon our sovereignty. We cannot be called upon to ignore a complaint which we have submitted in terms of the provisions of the Charter.

Mr. Romulo said—as was said by someone else the other day—that there were counter-charges. I submit that there were no counter-charges on Kashmir. There may have been counter-charges on other matters. The Security Council decided not to discuss them for the present but if it should be decided to discuss them, we would be willing to answer. In regard to Kashmir, so far as I can recollect, it is only paragraph 5 of the document that is relevant, and the answer was a denial. It was not even what the lawyers call a traversing of facts; it was a denial, saying that they had not invaded. That denial was denied afterwards by the Commission and therefore, the desideratum is invasion and aggression remains.

When Gen. McNaughton was President of the Council and when Dr. Graham and earlier when members of UNCIP, whom we did not invite—in fact, we did not invite the Commission, but we said, ours is a hospitable country; you can come—came and talked and talked—and in our part of the world it is very rude not to answer people's questions—and asked questions, we answered them. But we also asked some questions ourselves. So, would it have been right for us to come before General McNaughton, and to say; no, we will not talk until you decide this question of aggression? This very Council with great legitimacy, I may say, with total legitimacy, would have told us that we were being unreasonable. What could we do? We reserved our position in every document, in every utterance. We reserve our position today; and by reserve we mean, do not put it on the shelf.

In other words, if the position put forward by General Romulo, and the other day by Mr. Tsiang, is to be accepted, it becomes a crime to negotiate because once a charge of aggression is decided, what is there left to negotiate? We are prepared to negotiate without prejudice to that, and that is what the Commission said all along. Therefore, Sir, it is in your hands; it is your responsibility to address yourself to this position.

It is easy for me to be dismissed as one person; you cannot, however, dismiss the 400 million people in our country when a question of this kind comes before them. This is a problem which has deeply agitated our people and it is only the strength of our leadership, which is based in the masses, which is based in trust and confidence, that has been able to restrain the kind of excitement which might lead to a hatred which

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could not be controlled afterwards. It is only that which has prevented them from developing a wrong kind of feeling in regard to certain other countries, which has prevented them from getting into a kind of war fever. The second course suggested, therefore, so far as that is concerned, is one by which as a general principle or as a universal premise my country always stands—indeed, I submit all countries stand committed by it—under the articles of the Charter.

There are underlying problems of a legal character, because I have tried to be precise in regard to the position, because if accession is complete and legal, all these problems become comparatively simple, I have never asked the Security Council to pronounce on these legal issues since from the very beginning our position has been that we cannot ask the Council to do so because it is not a court of law. At the same time, the Council is working in the context of international law and justice and cannot depart from that, and that is why I have pointed it out to you. The President, speaking as the representative of Sweden, has thrown out the suggestion that it might be useful to have certain underlying problems of a legal character progressively clarified in order to create better conditions for an agreement. I suppose the real meaning is that a look should be taken at the legal claims which we make and which are basic to our position. If it means nothing more in terms of any provisions of the Charter, I believe the President will agree that I am justified in saying that he would want to see this in greater clarity and would want it to have full consideration by our Government and with our legal advisers—indeed the United Nations would want to do that—for we cannot at any time turn our face against the law.

That is our position, whatever the consequences are; that is our position in regard to these suggestions and there it is. The President went on to say that some legal aspects of the matter might perhaps be referred to the International Court of Justice for an advisory opinion. However, it all depends upon what questions are referred to the Court; we ought to have the opportunity to consider them in order to see whether the problem is referred to the Court in its necessary ambit and scope. Therefore, so far as the Government of India is concerned at the present moment, we simply say that we do not reject any of these ideas because if we did, we should be doing wrong. You would fall foul of us and, even apart from that, we should ourselves feel uneasy in our minds. We are, therefore, prepared to give consideration to these matters and, indeed, the Government of India knows the views of the Swedish Government and are prepared to take them into consideration, but we cannot go into any deep consideration of policy until the general elections are over.

That deals with the statements. Now I come to the draft resolution and will not take very long over it.

The first paragraph recalls the previous resolutions. It is one of those habits that we have formed to recall resolutions but I would like the draftsmen who assist representatives of the United States and the United Kingdom to have a look at these resolutions. Some of them you can recall as a matter of historical interest but you cannot implement them. For instance, one of them says that the Commission ought to go to India and Pakistan or something like that; so it is not possible of implementation.

This is probably a very obvious instance, but there are parts of these resolutions that have been worn out by time. Therefore, when the representative of the Philippines made a criticism of my Prime Minister's statement—he did not say so but he implied it—I want to say that we stand by that statement. I had a copy of the first draft of this resolution half an hour after I started speaking and the only alteration which was made in it was to the advantage of Pakistan.

Secondly, when I finished speaking that evening, I said to the President, who was

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the representative of the Philippines, that I had then made that part of my statement in order that he need not feel perturbed that some D-Day, some zero hour was approaching, not that I had finished the argument. In fact, I stated expressly that I had still to argue the case. What is more, those who know the facts of this matter know very well that what my Prime Minister says represents the truth as on most occasions.

Therefore, recalling these resolutions is merely an exercise, a sort of thing that often happens; and my delegation and my Government would find it difficult to understand why the resolution of 24 January 1957 has greater significance than the resolution of 17 January 1948 and I would be glad if the representative of the United Kingdom would tell me. If the Council would insist upon adherence to the resolution of 17 January 1948 we could forget all these other resolutions and I think we would have made a beginning in solving this problem. On 17 January 1948 the Council asked both parties not to aggravate the situation, not to introduce war material and things of that character. That stands violated. This is what was said:

> The Security Council having heard statements (Krishna Menon: And may I remind the representative of the United Kingdom that in those days they said "having heard statements") on the Kashmir situation from representatives of the Governments of India and Pakistan; recognizing the urgency of the situation (Krishna Menon: And then comes the operative part) calls upon both the Government of India and the Government of Pakistan to take immediately all measures within their power... calculated to improve this situation (Krishna Menon: And *Jehad* is not an instrument of improving the situation; and calumny and the base words uttered about my Prime Minister and head of my Government and of my country and of our traditions that is going on in West Pakistan at the moment is something not in consonance with this) to refrain from making any statements and from doing or causing to be done or permitting any acts which might aggravate the situation; and further requests each of those Governments to inform the Council immediately (Krishna Menon: I want to repeat this if I can have the attention of the Council for one moment) of any material change in the situation which occurs or appears to either of them to be about to occur while the matter is under consideration of the Council....

The matter has been under consideration of the Council from that time until now, and Pakistan did not inform the Council that it has introduced troops. I say it acted behind the Security Council's back and concealed facts from the Security Council and I think all our sins would be washed out in the face of that. And I ask my colleague, Sir Pierson Dixon, why this resolution of 17 January 1948 has less sanctity than any other resolutions. In so far as they are recalled, and if they have any meaning, that is a helpful situation. I say that if the resolution of 17 January 1948 was adhered to by Pakistan then we would have had the beginning of a solution. May I preface my next observation by saying that I recognize that I have no part in this resolution either in saying that I support it or that I oppose it, because I am not a member of the Security Council, but I believe that I am invited to offer observations.

The second paragraph of the preamble reads: "Having taken into consideration statements of the representatives of the Governments of India and Pakistan"; with great respect, I would submit that this is a slight overstatement because although statements have been heard, the case is so complex and has been argued at such great length and there are so many documents in the matter and so many cross currents in it, it would be more accurate to say: "Having heard what we have to say". This would be nearer the truth and, more nearly, in conformity with the previous resolutions. This gives the impression of a great deal of deliberation on this matter before you came to the next conclusion, and I submit that I believe that we would like Member Governments, not just one individual in the Security Council, but Member Governments to go into this situation which is one of the most important situations in the

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world. The draft resolution continues: "Concerned at the lack of progress in settling the dispute". This word "dispute" was introduced by the Security Council without our assent. Only two resolutions to which we agree are those of 17 January 1948 and 20 January 1948 and two resolutions of UNCIP. You will find that in these resolutions the word "dispute" does not occur. The word is "situation"—and it is not quibbling with words. We have heard legal arguments—and law is the essence of civilized language, so we cannot just ignore it—but we definitely think the introduction of this word means a political change.

Mr. Gopalaswami Ayyangar, speaking before this Council, said in categorical terms that this is not a dispute over territory—there is no dispute over our territory; the territory is a constituent State of the Union of India. In exercise of its sovereignty for any political reason it can consent, it can initiate, it can order an act of cession. That is a different question. Therefore, there is no dispute over territory. I submit that this frequent reintroduction of the word "dispute" is an attempt on the part of the framers of these resolutions to weight these things against us—because this is a "situation", it is not a territorial dispute. How can it be a territorial dispute when the sovereignty of Jammu and Kashmir was recognized by the Security Council, when you say neither the Security Council nor the Commission can change it, when you say that it is the duty of the Union of India to look after the security of this territory? It can station garrisons on the western and north-western frontiers to guard the passes that come into India.

I read the next paragraph: "Considering the importance which it has attached to demilitarization of the State of Jammu and Kashmir". I submit, the word "demilitarization" has a particular connotation. It is not only just a plain matter. It means much more. The use of the word "demilitarization" in the context where a party who has no legal, no moral, nor any other title under any semblance of law is in occupation of part of a territory, is a mockery of justice and of international law. And, so far as we are concerned, what the Security Council is doing is to expose our vast territory to the insecurity of a neighbour who is not showing the friendly intentions that we expect. Therefore, "demilitarization" in terms of counting in quantum of troops and whether they shoot pistols or revolvers or shotguns or machine guns—those problems are not important problems.

The first element in demilitarization is the removal of those peoples whose bodies have no business and no title to be present on the soil of Jammu and Kashmir. That is 13 August resolution, that is 5 January resolution, that is in every resolution of the Council—whenever it says it, it says so. And what is more, that is in every assurance given by Korbel, given by Lozano and given by Huddle—the United States gentleman who was chairman—that, irrespective of personalities, those were assurances given to us not in secret, not whispered into our ears but they are part of public documents which are in the records of the Council. If for any reason the Council, on a subsequent date, gave an assurance to the Pakistan side which they can interpret in another way, the responsibility does not lie on the heads of the Government of India. Therefore, we would object to this word if we were parties to the resolution. We insist because this is throwing the whole thing out of its context; that is to say, you are asking the President of the Security Council to do what Dr. Graham has been trying to do for five years, what Sir Owen Dixon tried to do and, at the end, said that this is not a has not been asked to do—and so on. The has not been asked to do—and so on. The whole reference—that clause—I submit, is misconceived. It is the wrong context, the wrong thing. We are talking about something that has no real relation. I do not say it is irrelevant. The relevance of it is not essential. That is, there is no essentiality about this because that is not a problem.

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The next paragraph: "Noting that demilitarization preparatory to holding of a free and impartial plebiscite under the United Nations auspices has not been achieved...." Now, there I think it should also have been noted that one of the conditions of holding a free and impartial plebiscite is the cessation of religious propaganda. Under our law, which is copied from British law, at least the essence of it, it is an unlawful practice, and some other legal phraseology which I have forgotten, to appeal to religion, to say to voters that they are Catholics, therefore, they ought to vote for the Catholic candidate; or that they are Protestants, therefore, they ought to vote for the Protestant candidate; or that they are Moslems, that they ought to do this; or that they are Hindus, and they ought to do that, or the wrath of God will be visited upon them. In any way, to make use of relgion in order to obtain a political end in an election in our law is an unlawful practice which would disqualify the person concerned. Holding of a free and impartial plebiscite, therefore, is possible only when there is the preparatory condition.

Now I submit to you, the two gentlemen who are responsible for the initiating of this resolution, is it fair to ask for the adoption of a method which, in its general essence, which in its genesis, which in its purpose, is peaceful, but enable it to be surrounded, if not rooted, in hatred? Therefore, until you clear that away how do you get anywhere at all? And even with the passing of nine years it has not been cleared away and, what is more, is being accumulated. I cite evidence of the statement of the distinguished Foreign Minister who warned the Security Council, who professed in his first speech, in what in effect amounts to an ultimatum. And this campaign of *Jehad* that goes on—we are still in the days of the holy wars.

The next paragraph is the crucial part: "Noting the proposal of the representative of Pakistan for use of a temporary United Nations force in connection with demilitarization".

It may be argued that it is right to note anything. There is no crime in stating that something has been said. But when in a resolution something is noted and something is not noted, for example, it has not been noted that the Government of India says that the country has been illegally occupied, that there is an enormous influx, accumulation of arms and forces, there is hatred propaganda—all the other things I have told you. Those things are equal, at least equal in our opinion—of greater value. They have not been noted.

This selection, this invidious selection, lends a political importance to it. You note, the Security Council, this august body which is seriously minded, notes something in relation to its value. Therefore, you place a greater value on this than on other things. It is this suggestion that has come out of "noting the proposal of the representative of Pakistan". I submit that the proposals ought really to come from the Security Council. That, of course, is a matter for you gentlemen and not for me. Now we come to the next one.

We come now to the next paragraph: "Believing that in so far as it might contribute towards achievement of demilitarization as envisaged in the resolutions....and towards a pacific settlement of the dispute, the use of such a force would deserve consideration."

We should like to offer observations on three parts of this paragraph. First, we should like to comment on the words "might contribute towards achievement of demilitarization". The facts deny this. How would the United Nations force contribute to the achievement of demilitarization when there are 45 battalions of the "Azad Army" on the other side and large numbers of irregulars and commandos who cannot be traced? What would be the practical size of any United Nations force that goes in there? Would the United Nations force,

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in conditions of the world at the present time, be in a position to disarm any soldier of any other country? I can understand their performing police duties. I can understand their going into a place where we are sure they would not be fired at. But would you say that in conditions that obtain in these areas any United Nations force that you can get to go would be able to achieve demilitarization? Would they be able to exercise a degree of supervision that was necessary? This is on the basis that some agreement has been reached about it.

Furthermore, I would say that it is not necessary to have a United Nations force to achieve demilitarization. All that has to be done is for the Pakistan Army to withdraw and, in order to create conditions of security, for it to give an international guarantee that it will not move out of its cantonments beyond spaces which can be permitted with security; and for the Indian Army in Kashmir, which is in a constituent part of its territory, to be deployed only in conditions of peace. That is what we have done. Therefore, the question of sending somebody to disarm does not arise.

With great respect, we have not in our country attuned our minds to the conception of any foreign forces, United Nations or otherwise, disarming of soldiers or disbanding them. That is the function of our sovereign Government. So far as we are concerned, if we gave an undertaking to withdraw them, we would withdraw them as indeed we have done. We have without any commitment withdrawn very large numbers of troops from this area.

In this connection, I would like to contradict what was said by the Foreign Minister of Pakistan the other day. It is a statement of the same character as I contradicted the other day, which he has not repeated afterwards, that the Government of India is concentrating troops on the Indo-Pakistan border. This is an entirely untrue statement and I am authorised by my Government to deny it. There has been no addition of military strength either on the Punjab frontier or any other Indo-Pakistan frontier. The Indian Army moves along according to normal routine of its manoeuvres, of its practice. There has been no accumulation of forces anywhere and no addition to its strength. This is, I believe, a story somebody picked up somewhere which was printed in newspapers and was believed.

The second idea in this is "demilitarization as envisaged in the resolutions of the United Nations Commission". With great respect to the authors of the draft resolution, I submit, that this is a misstatement of facts. What is envisaged in the resolutions is disbanding and disarming of "Azad forces", total withdrawal of the Pakistani Army and, at a subsequent stage when that is achieved, withdrawal of the bulk of the Indian forces. It is quite true that we have discussed at various times a simultaneous, synchronised operation and so on. I submit, however, that as this has not been accepted it ceases to have value. It cannot have. Hereafter my Government will not agree to one commitment hanging over its head because we find that we have been sufferers in this. There is no room not to be on one's guard. Therefore, we submit that we have no commitments in this direction apart from what is in the resolution of 13 August 1948. Consequently, the second idea is not strictly accurate.

The last part is most important. It says, "deserve consideration". I ask my colleague from the United Kingdom, who is a scholar of great repute, to explain to me what that means apart from saying that this has merit. This is the Security Council which is composed of Member Governments of the United Nations and they set about a proposition which not only does not deserve consideration but which is contrary to the Charter, contrary to the interests of peace and contrary to friendship that exists between the United States, on the one hand,

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and the United Kingdom, on the other, towards us. It is contrary to all canons of international behaviour that must be respected. Therefore, it does not deserve consideration.

I say it is contrary to the Charter because the United Nations has no authority to place any soldiers in our territory under Chapter VI and I want to make this perfectly clear. In this connection when I say "our territory", any soldier that sets his foot in the Pakistan area of the State of Jammu and Kashmir is violating the sovereignty of the Indian Union because according to your decisions, according to the commitments we have with you, they are part of Jammu and Kashmir. So, it is not as though you can make an arrangement with Pakistan and feel that you have not violated any law. It is a violation of the Charter.

The other day, the Secretary-General, in another connection, pointed out that it was only under Chapter VII that troops could be placed anywhere except by common consent. Now, someone said that this consent should be forthcoming. I have no desire to sound unco-operative or even worse. The Government of India will, in no circumstances, permit foreign troops on its soil. That is a categorical statement I am asked by the Government to make to this Council. We will, in no circumstances, in this context, permit the stationing of foreign troops on our soil. The only condition on which we shall have our troops go on foreign soil, as we told the Secretary-General publicly and privately, or on which we shall accept ourselves, is in pursuance of the Charter.

The Security Council is asking us, not deliberately, to accept a situation which in our view is contrary to the provisions of the Charter, a violation of our sovereignty and calculated to disturb the peace. That is the legal part of it.

More than that I would ask the representative of the United Kingdom, who has much more access to information about India than anyone else because of past connections with us and many present connections, to cogitate on the situation. What volume of troops would be required to keep order in the State of Jammu and Kashmir on both sides when our security troops are withdrawn, considering the vast amount of opposition there is even to the past resolutions of the Security Council, the enormous amount of public demonstrations of disapproval and public anger and the intensity of the feeling in the country with regard to this matter? On our side how many troops would be required by the United Nations, assuming there were no legal or other difficulties? Equally the moment this is published in Pakistan as a great victory for their side there will be enormous hopes aroused and all these forces about which I read to you—the man who asserts he will do it by force—will be alerted. Therefore, any conception that this is deserving of consideration on merits—I suggest that this is a chimerical proposition, an impractical proposition, a proposition that goes against the purposes of the Charter and the purposes of a settlement.

There is a statement about the people of Kashmir—that is to say, the part that is not taken over by the enemy. This is what Mr. Morrisby, and—Australian journalist, wrote and said to the people on 11 February 1957, that is to say, a fortnight after 26 January. This report is partly in direct narration and partly in indirect narration:

"The people of Kashmir have given their full support to the State's new Constitution as this Constitution enshrines the sovereign will and has, therefore, special significance for all of them", said Mr. Edwin Morrisby of the daily *Sydney Morning Herald* of Australia in Srinagar on 7th February 1957, in an informal meeting with local newspapermen.

Mr. Morrisby, who was giving his impressions of four days' tour of Kashmir, added that the State enjoyed semi-autonomous status in the Indian Republic and so the people enjoyed more freedom than in other States of India. The enthusiasm with which the people had rallied to the call for active participation in the implementation of development plans "provide irrefutable evidence of the popularity of the Government and their leaders", he said

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Then there is another quotation from Mr. Morrisby:

They have made it clear that they would under no circumstances tolerate any attempt to disturb the peace and stability of the State which has been achieved after great trials and sufferings.

Mr. Morrisby, who went to some remotest corners of the Kashmir Valley, said: (Krishna Menon: As I told you the other day there are no restrictions on foreign travellers to Kashmir apart from the fact that they must be able to pay their way). "There is nothing abnormal in the State. The people are quite contented and busy in their business of life just like in the rest of India."

We did not ask him to write that. As we say this is not an Indian newspaperman. I usually do not quote newspapers because after all they are not authoritative in this sense but this is the latest opinion we have received from an independent source and it deserves consideration.

On this point, about deserving consideration, I should like to request representatives who are responsible for this draft resolution to address their minds to the history of this proposition. This is not a new suggestion. This suggestion was first made as early as 1948. If the representatives will look at the transactions at that time, I would refer to the statements by the Pakistan Foreign Minister, Sir Zafrullah Khan on 19 August 1948 in UNCIP's first interim report. I shall read the relevant part:

In particular, the Pakistan Government would be glad to know whether the Commission intend to secure the services of an international or neutral force for this purpose and if so what the strength of such a force would be.

So as far as Pakistan is concerned, it is an old suggestion which has been rejected time after time. The Commission's reply was this:

In drawing up the resolution of 13 August 1948, the Commission did not and could not proceed on the presumption that one or the other party would violate the truce. Implementation of the resolution presupposes good faith and co-operation between two parties. (Krishna Menon: That fact is still true because without that we could not have any implementation). As the Government of Pakistan is aware the United Nations does not have, at its disposal, an international force. The use of neutral force has not been contemplated by the Commission. However, the Government of Pakistan will have noted that the resolution provides for neutral military observers.

The United Kingdom and the United States, if I may say so without any disrespect, are not original in this suggestion. They came out with this on 21 February 1951. The joint effort in relation to us is of long standing in this. In the United States and the United Kingdom draft resolution of 21 February 1951, contained in document S/2017, this is what they said:

Authorizes the United Nations representative to take into account in his discussions (Krishna Menon: Same thing as now) with the two Governments and in considering arrangements for demilitarization and for holding of a plebiscite: .....the possibility (Krishna Menon: It was less at that time) that any forces required for the purpose.....(Krishna Menon: At that time it did not say that it must be this one. It only said: "If you want someone we shall send someone") the possibility that any forces required for the purpose of facilitating demilitarization and holding of a plebiscite might be provided from Member States of the United Nations or raised locally.....

I remember that the same suggestion was made by the Prime Minister of Australia in informal conversations. Our reply was made by Mr. Benegal Rau, a man whose memory is revered and who cannot be accused of any overstatement of any sentiment:

We are wholly unable to accept any entry of foreign troops in this State or in any other part of India (Krishna Menon: That was in 1950 and we repeat that). In view of the provisions made by the resolutions of August 1948 and January 1949 there is no occasion for use of foreign troops or of special local levies recruited by outside agencies. Nor, in our view of the detailed provisions contained in the resolutions of January 1949 to ensure a fair plebiscite, can we accept a supersession of the lawful Government of the State or any interference with its normal functions. (Krishna Menon: That appears in document S/PV. 533).

He was asked about it again a rew meetings later and that appears in document S/PV. 536.

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My friend has asked whether India agrees to the principle of having United Nations forces in Kashmir. I have already stated India's position in this matter and given our reasons for it:

(1) We are wholly unable to accept any entry of foreign forces in this State or in any other port of India. (2)In view of the provisions made by the resolution of August 1948 there is no occasion for use of foreign troops.....

Then something happened which I hope will happen this time also. On 21 March 1951, the United Kingdom and the United States dropped this suggestion in their revised resolution. The same proposal was revived by Dr. Graham in India and this is contained in the second report of Dr. Graham which is contained in Document S/2448 in paragraph 5(C) of the questionnaire addressed to us. This was one of the questions:

If not, is the Indian Government ready to accept forces to be provided by the United Nations in order to safeguard the security of and to maintain law and order in the whole State of Jammu and Kashmir as long as the United Nations, in consultation with the Governments of India and Pakistan, deems necessary?[1]

Our answer given by the Prime Minister at that time was this:

As regards the suggestion for bringing of United Nations forces into the State it has been made clear more than once, on behalf of the Government of India, that the replacement of Indian Security forces by foreign troops, however constituted, can under no circumstances be accepted. We do not understand why this suggestion is being repeated.

With very great respect I repeat that last sentence of the Prime Minister. We do not understand why this suggestion is being repeated.

Then I have a paragraph from my old friend, Sir Gladwyn Jebb, which I shall not read because he is not here. But someone in the Council suggested that Sir Gladwyn Jebb's observation was rather nostalgic, in a way, of getting the troops back but I do not share that view and so I shall leave it.

[1]Security Council Official Records, Seventh Year, Special Supplement No. 1, Page 17.

On this draft resolution—and I ask Sir Pierson, Dixon not to take this in the wrong way—and our minds, not only mine but also those of the people sitting around here, go back to those 300 years from Clive to Wellesley, from Wellesley to Dalhousie, from Dalhousie to Canning, from Canning to Minto, from Minto to Linlithgow. During all that period we have served to liberate our land from the presence of foreign feet on its soil with arms. This Security Council dare not ask us to accept the introduction of foreign troops on our sacred territorry. Therefore, the history of our country, being what it is, one of the conditions we have always asked was that there should be no foreign troops on our soil. If this brings back these sentiments to us and even to those of us who comparatively are instructed—I say this perhaps with lack of modesty—what kind of sentiments will come back to the masses of or people? Therefore, any suggestion of this kind would be unwelcome in India.

I wish to add before I leave that point that the introduction of United Nations forces which presumably would be constituted of volunteers of Members States, unless the United Nations proposes to form a foreign legion, would, in my submission, not only be a violation of the Charter; it would be a violation by each Member State that countributes troops because we have bilateral relations with them. If a Member State were to send its troops to our country in violation of the Charter then they are not protected by the Charter. Their protection disappears on account of the illegality. I come now to the operative paragraphs. I shall make this very brief. As regards the representative of Sweden, who is the present President of the Security Council,, we have aleady expressed our view. Perhaps, we should not say any more because it might embarrass him. Someone might suggest that the President of the Security Council is too well liked by India. It is true that he was Minister

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of his country in India but at the same time, I believe, that he was Minister in Pakistan. I note that he is indicating that he was not so, I may be wrong on that.

At any rate, so far as we are concerned, whether one has been to India or not, our Government would never refuse hospitality to anyone who comes from the United Nations or indeed anyone who is satisfied with the kind of modest hospitality that we can offer. But when it comes to a discussion of a proposition we have to look at what he has. However, in the general context of never declining conciliation India will not be found wanting.

This draft resolution, in our submission, is totally vitiated by its preamble, and by its introduction of the United Nations forces. I would ask the United Kingdom and the United States to consider that, in the way in which they have presented their proposal, they have established, what a lawyer would call, a *prima facie* case, that is, they have already given them a good certificate—it is a *laissez-faire* for this matter. Of course, it could be argued that it deserves consideration by the Government of India. That is a possible explanation. But I have given the answer; we have considered it for many years and we have rejected it. Therefore, so far as that is concerned, the draft resolution will be of no value.

Secondly, it will not meet the purposes for which it is required.

Sir Pierson Dixon, with characteristic sincerity, has asked us to believe that his country was a common friend of ours—and I have forgotten the fact that he forgot us in numbering the other day, and I accept that in the way it is offered. But I would be failing in my duty if I did not convey to the Security Council, and to him, that the developments of the last few days and the promotion of Pakistan proposals either by or with the assistance of the United Kingdom have not served to soothe the difficult relations that have arisen as a result of many other matters.

My Government will not throw the baby out with the bath water. We are a conservative people even though all of us do not belong to the Conservation Party. We are a people who are attached to the people of the United Kingdom by many ties. But the basis of all that is mutual respect, and once that disappears other things become difficult.

I would be failing in my duty and it would be inaccurate to suggest that the reception of this idea on the other side is in the same way. Here is a report of the view of the Prime Minister of Pakistan. As everyone knows he has sent his congratulations and his appreciation and gratitude to the representative of the United States. After that he stated—this is a *Dawn* report and I do not say that it is an official paper; it was founded by the founder of Pakistan and is considered to be premier paper—I hope I am not making invidious distinctions in Karachi:

> The Prime Minister of Pakistan paid a tribute to the role played by the United Kingdom in the Council deliberations and said that the United Kingdom had lent a great deal of assistance in the Kashmir question which was again responsible for the support received from the United States.

I am afraid that this is not very flattering to the United States but I am not reading out my opinions; this is the opinion of the Prime Minister of Pakistan. Of course it may well be that he is so pleased with the matter that he attributes reasons in other ways. The United Kingdom is entirely free in this matter to take whatever position it wishes as a sovereign nation and as a permanent member of the Security Council. But so much has been made in this debate of our being two pass in a pod, of our common and equal relations and so on.

I was High Commissioner in London for five years and I had a great deal to do with relations of the United Kingdom and India.

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I also had a great deal to do with our military organisation as far as it concerned the United Kingdom in connection with supplies and so on. It would take much more than normal circumstances for me to believe that there has been any occasion on which we have been the object of any particularly favourable treatment. We never asked for it and we never got it. But we have always been treated kindly, courteously and with respect and I am sure that this position will continue.

But I would beg of Sir Pierson Dixon not to ask us to convey the view to our people that the attitude of the United Kingdom on this draft resolution is one of impartiality as between Pakistan and India. This does not mean that the United Kingdom is not impartial on the question according to its own lights. As far as we can see it, however, it would not be so regarded by our public opinion.

I express my thanks for the courteous way in which this difficult problem has been presented. This very bitter pill has been coated with a lot of jam but, nevertheless, the pill is very bad. It is not only bitter, it is poisonous—sheer poison, so far as peace is concerned.

Some concern was expressed by the representative of Cuba before the Security Council about the people of Kashmir. My Prime Minister stated the same thing. The people of Kashmir do not necessarily have to be separated from the people of India for this. It is their future, it is their economic and political stability, their rights of freedom and their hopes of the future. They have waited for a long time to have their difficulties settled and they have taken things into their own hands. Any attempt to rearrange this question and not to allow this matter to come about by direct negotiation between our two peoples, in conditions when Pakistan and India can mutually respect and trust each other, would be wrong. That cannot be done by resolutions of the Security Council or by resolutions of any other organ. That is a matter to which we have to make our Pakistan has to make its contribution in a contribution; I say with equal respect that greater measure to make up for its defaults of the past.

The first element would be to call off the dogs of hatred, the campaign of hatred. Our country will not tolerate threats and we shall not sit down under them. My Prime Minister stated yesterday that if it came to that we would perform our duty under the Charter of the United Nations, that is, to defend the soil of our country. We are not cowed down by these threats nor are we going to fall a victim to them by creating a war atmosphere in our country. We shall reject an attempt to introduce war elements in the way of a United Nations force following upon other war apparatus and military pacts upon our frontiers which have extended the whole realm of the cold war right into the heart of our country.

Will you say, Mr. President, that a responsible Government like ours does not have the primary duty for the security of our country which in the last 800 years or so has been time after time invaded through the north-western passes and which for 300 years has lain at the feet of the conqueror? Are these not primary duties that we owe to you and to ourselves? Or are we to be intimidated by press propaganda, that we shall be called an immoral people? We are judges of morality. Morality is not a matter of voting. You cannot vote people into morality. If we acted against international morality that would be on our conscience and the action would show.

India pleads not guilty and denies all charges of any attempt at violation. It begs of the representative of the United Kingdom not to throw aspersions upon our determination to observe these obligations. It begs of the Security Council to take into account that if we have any engagements those engagements are conditional. We cannot subscribe to General Romulo's theory that those preconditions are

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warranties. They are the foundation upon which a commitment is built. No part one, then no part two, no parts one and two, then no part three—that is how it is. Therefore, those conditions are fundamental.

Therefore, if we have addressed ourselves to this matter at length it is not because we want to win a resolution or to ask you to accept or reject a resolution. This is a time of great political excitement and activity when we have this barrage of propaganda from the north-west—thank God, not from our north-east—and all these mis-statements of fact about concentrations of Indian Army. I ask you: How do we concentrate these armies without having to pay for them? We have a Parliament, we have a budget—we have to find money. Where do we get extra troops? What is more, there are observers on the cease-fire line: if we concentrated troops they would know it and they would report to the Secretary-General.

Therefore, we cannot proceed in that context. I beg of you not to take a step which will aggravate the situation. There is always room for good men, men of wisdom to find ways and means. But these are not the ways. It is implied that we are wriggling out of a commitment. Newspapers of the country are led to believe that India is backing out of a commitment that was made and the world is not told the truth—the simple truth—that must be accepted by every member of the United Nations. How did Pakistan get into Kashmir? There is only one way that she got in and that was by invasion. And is there anywhere in the Charter any provision for exercising, by use of arms, the right over a territory over which she has no claim—over which she may establish one in the future but over which she now has no claim?

I submit that after nine years there is bounden duty lying at the door of the Security Council to look back at the resolution of 17 January 1948, subsequent resolutions and the concealment of facts not only when the Commission went there but subsequently time after time. Accumulation of arms today and the continuous concealment of increase in arms, strength in air and on ground and everywhere—these are not only violations of the Charter but they are a threat. And those threats do not come from us. We as a country have given evidence of our loyalty to the Charter. With our meagre resources we have contributed to the safeguarding of peace. In the course of doing that we have incurred hostility from various sides.

Without introducing any element of controversy, I should like to conclude on this note: My country has deliberately chosen the path of an independent foreign policy. No pressures will elbow us into an alignment in one direction or another. We serve our people and the cause of international peace as enshrined in the Charter of the United Nations.

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VII

20 February, 1957

I would like, first of all, to express my deep regret that I may have contributed to the prolongation of the proceedings of the Security Council by my inability to be present here at the last meeting. I have done the best I can to meet the convenience of the Council and the necessities of the case by coming to the meeting this morning. I also would like to express my regrets to the Foreign Minister of Pakistan for not having had the privilege of listening to his observations in person but I have read them with great care.

On behalf of my Government I have intervened in this debate on three different occasions and have made statements which go into considerable detail, all of which my Government regards as essential and relevant. The fact that the Security Council has given it the attention it has, is proof of its importance.

I have read the nearly 60 pages of the Foreign Minister of Pakistan's statement, and if I were going to take this on the basis of answering it paragraph by paragraph and dealing with the accusations and allegations, it would take another lengthy statement. I am sure it would not be the wish of the Security Council that I should do so. And without in any way adopting the tenor of that speech. I would like to say that I have no intention of answering the personal attacks and reflections upon my country contained in it, nor have I any intention of asking the Council to consider certain expressions used and the reference to certain fables and so on, which my Punjabi friends would say, are not in good taste, and, therefore, I will not touch on them.

At the same time, since, so far as the Government of India is concerned, its position has been affected in this matter on several occasions by allowing things to pass without an attempt to place them on record, I propose to take only such categories of points that have been raised and refer to total misstatements of fact, and I have the responsibility to the Government of India and to this Council to correct these misstatements because they affect relations between our two countries, the status of this Council and the peace of the world.

These misstatements are an attempt to confuse the issue. It would be wrong for me to say that they reflect any confusion in the mind of the author—that would be impolite. The first of these is to ridicule the idea that the Government of India has repeatedly referred to the facts of accession, aggression, sovereignty and such other matters, and my distinguished colleague found these words—I will not say offensive—rather boring. But they are the basis of this problem. Of course if you get the basis out of the way then you can do what you like with it in your own discretion. But that is the basis of this problem. It was the basis of this problem when we came here; it has continued to be the basis of the problem at every meeting of the Commission, at every meeting of the Council, in every assurance that has been given to the Government of India— which was known to the Government of Pakistan publicly—and, therefore, we make no apologies for this. And, what is more, the Government of India will not resign from its fundamental position that Kashmir—until something else may happen, as I said before—is an integral part of the Union of India by its Constitution, by what it has derived from the British Parliament by the fact of international law and—if I may say so without going into the legal argument—I believe the British Government has the greatest experience in this matter in her relations with Portugal. Any municipal law which is generally accepted in other parts of the world attains the status

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of international law even if it is not incorporated. Here is a situation which is common to the great parts of the system of parliamentary government where we, as the successor state, inherited our status, our functions and our power by Parliamentary legislation and by the authority conferred by the British Parliament and accepted by the two sides. That has been the basis of our position from the beginning. I do not want to elaborate this because I have gone into it in great detail.

If I correct misstatements of fact it is only because the Security Council should be aware that, on behalf of the Government of India, no statement—and I say this without qualification—has been made before this Council which is not supported by documentary evidence and, if it is challenged, we are prepared, if we are wrong, to withdraw it, but there will be no occasion for doing so.

Now, we did make the point that Pakistan delayed its acceptance of 13 August resolution, not in order to make a point of chronology, but because it was that delay which enabled Pakistan to make military advances that it hoped to make. And in the meantime between 13 August and 5 January many things happened and it had rejected the resolution and the Commission says so. The Foreign Minister tells us that this is not the case. He says: We accepted it a little later; we did the same as the others. Let me read to you what he said:

> It is very significant to note here that whereas Pakistan took a little time, a month or two, (Krishna Menon: A month or two is from August to December) in asking for clarifications and then accepting along with India the resolution in toto, Mr. Krishna Menon tried to create trouble because of this two or three months' delay.[1]

With great respect, what I do here is not the concern of the Foreign Minister of Pakistan. I am not a subject or a citizen of Pakistan; I represent my Government and I wish that in future he would be a little more careful in making references to me.

What are the facts? The facts are—and this refers to 13 August resolution—that Pakistan took a long time. Pakistan made a reply fairly soon but this was a reply not of acceptance but a request for clarification. The Commission said that the reply had the character of rejection. This is what the Commission said:

> The Commission observes with regret that the Government of Pakistan has been unable to accept the resolution (Krishna Menon: That is the resolution of 13 August 1948; these are not my words) without attaching certain conditions beyond the compass of this resolution, thereby, making impossible an immediate cease-fire and the beginning of fruitful negotiations between the two Governments and the Commission to bring about a peaceful and final settlement of the situation in the State of Jammu and Kashmir.[1]

There was no question of their accepting this 13 August resolution. They rejected it; and they rejected it for the simple reason that they did not want a cease-fire at that time. This is not a question of chronology only. This is a question of the reasons of why this was brought about. Therefore, first of all, the facts are not as stated and it is incorrect for the Foreign Minister to suggest that we have misquoted anything or misrepresented his position. We rely on the Commission's reports.

Now the next point I want to deal with, not one by one because there is not enough time, is with regard to what I call "assurances". Here, I would request the members of the Security Council to study the documents which are before them; they will have time to do so, I hope. Now the assurances that are given to India are of a categorical character, that is to say, the Prime Minister asked certain questions. "Is this A,B,C? This is our understanding X,Y,Z. Do you agree?" and the Commission said, "our interpretation

[1] S/PV. 770, Page 5.

[1] S/1100, Paragraph, 108.

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corresponds"—whether it be Mr. Korbel or Dr. Lozano, they gave a categorical statement. Therefore, there was a query and an answer which made a complete affirmation. That is the position with regard to the assurances given to India. Those assurances are part of the documents of the Security Council. They are assurances given by this body whether it be given by the Chairman or not. The assurances given to Pakistan were, I believe, with two exceptions, of an entirely different character. The Pakistan Government asked certain questions. And the Commission did not say "we agree with this" or make certain interpretations. They do not say, "we agree with this". They say, "we do not agree with this". Or they say, "we mean something else".

Now the most characteristic of this is the one to which the distinguished representative of, I believe, it was the United Kingdom or the United States, I forget which one, referred to the other day about synchronization of withdrawal. Now the Commission told them that "what we mean by synchronization is very different from what you mean by synchronization." I do not call that an assurance. In an assurance two pieces must fit together. In our case they did. Every one of our assurances were of this character. And my submission is that, so far as assurances were given to Pakistan, we can only call them so-called assurances.

Secondly, the assurances given to us were published; they were not secret. Pakistan accepted two resolutions after those assurances were known. The Government of India cannot accept the position that you can read these documents separately from the UNCIP resolutions which were accepted and the assurances which were endorsed by the Security Council.

Then we come to another aspect which is very important. I have no personal feelings about this matter, Mr. Noon has accused me of misinterpreting a paragraph in the resolution which refers to the truce lines. This has reference to Part II, Paragraph B(2) which reads as follows:

> Pending acceptance of conditions for a final settlement of the situation in the State of Jammu and Kashmir, the Indian Government will maintain, within the lines existing at the moment of the cease-fire, the minimum strength of its forces which in agreement with the Commission are considered necessary to assist the local authorities in the observance of law and order.

We made the point that this was a part of the agreement that was reached, that it was the responsibility of the Government of India for the security of the whole State. They have to go to the assistance of the local authorities. "Local authorities" was the name used exclusively for the entities in the occupied area. And the other was called the Jammu and Kashmir Government—and the Indian Government had to maintain these within the lines existing at the moment of the cease-fire.

Now the distinguished Foreign Minister tells us that these lines, the plural lines, refer to different cease-fire lines. I refer the Security Council to its own map—this is a map which, unfortunately, does not have a page number but it follows at the end of this book which is the third interim report of the Commission. I do not know whether anybody can see it, (indicating) that is the cease-fire line. There is only one line. There are no two lines of the cease-fire. I have behind me the Military Attache of the delegation of India to the United Nations who spent three years in Kashmir in the campaign. What is more, he has spent the whole of his military life in the Punjab—the area we are referring to.

The lines that are referred to are the battle lines, the disposition of forces as they were then. There can be no other lines. There was only one cease-fire line.

Does the Security Council believe that after all these months of discussion they would have put in here a plural which has no meaning. Would they have repeatedly stated the Government of Jammu and

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Kashmir, the Government of the whole State as being local authorities?. "Local authorities" are the words used for this purpose. Therefore, I do not propose to go into all the dissertations in the Oxford dictionary. The meaning is very clear.

At that time we were thinking in terms of a quick cease-fire, of local authorities and of the proper government, and then going on to other parts. Consequently, so far as we are concerned, there has been no attempt to mislead the Council. We have never misled the Council and we do not intend to do so. If our case is bad at any point we are prepared to accept that decision. There is only one cease-fire line—the authorities referred to the others—which, therefore, establishes the position.

What is more, later on, Mr. Korbel, who was the Chairman of the Commission, said that the responsibility for law and order which includes security is that of the Government of India. This is another part of the assurance which you have in your documents. So you cannot get away from that one.

We come next to the question of incorporation. The Foreign Minister was surprised that we brought this matter up just now. Though he said that I—presumably the Government of India—make trouble, we do not chase trouble. We know that *de facto* this territory has been under their authority since the cease-fire and the deterioration of the situation since they disregarded the injunctions of the Security Council and acted as though to reap the fruits of invasion. But it was only when they took an overt illegal act that the Indian Parliament sat up and took notice. It was not as though the Government made this difficulty. The Indian Parliament naturally turned around and asked: How is it that a neighbouring State has a right to a part of the territory that, under the Indian Constitution, is Indian? No country here would permit that. So Pakistan accepted Chitral's accession, which it had no right to do because Chitral had no right to accede as it was only a feudatory State.

There is all this reference to how the people of Chitral will vote. You know that it is a very dangerous thing for a gentleman to come here and tell us how people are going to vote because that knocks the bottom out of free elections, if anybody is going to tell me how people will vote before the vote is taken. That is why we did not bring up Chitral until the Pakistan Constitution.

Then the representative of Pakistan informed the Council—I will try to make this as brief as I can—that the incorporation of Kashmir is provided for in section 203 of the Constitution of Pakistan. There it says that when the issue is decided Kashmir shall become part of Pakistan, if it is decided in their favour. My submission is that that reference is to the part of Kashmir which they do not have. That incorporation refers to the part of Kashmir which is now under Indian administration and which, if they did get, would then become part of Pakistan. That is what section 203 is for. The present thing is covered by Article 1 (2) (c) of the Constitution of Pakistan. I think I circulated it. I am speaking from memory. I believe that it definitely says that every area under Pakistan administration is part of the State of Pakistan. And this area is under their administration—so it is *de facto* and it has been stated by the Commission. What is more, it is administered by them. There is a Minister of Kashmir Affairs. There is no question that this was under Pakistan administration. If it is contended, as it is sought to be implied in a later paragraph, that we cannot ask these people to have elections because they are independent, does the Security Council believe that these people are capable of raising 45 battalions of artillery and infantry with modern equipment part of which was

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supplied to Pakistan itself by foreign countries? Are they capable of bringing these armies to that level? What is more, there is a submission made by their own administration, not ours, which the Pakistan Government regards as the national movement in "Azad" area, its memorandum to the Constituent Assembly of Pakistan complaining about the way they are being treated. The phrase, I believe, is that they cannot even appoint a peon—peon means a porter, a messenger or something of that kind— in "Azad Kashmir". That is the position about the incorporation.

Then there is a reference in three different places which is very vital to us in regard to what we consider as essential in any kind of election or plebiscite—that is freedom from religious propaganda. That is to say, no one shall be subjected to threat or to fear that he will suffer disabilities in another world if he votes in this way, that way or any other way. This is not only against the character of a secular state but against the whole conception of the United Nations. It is embodied in our various declarations and I have quoted them. The Foreign Minister of Pakistan said that the Government of India can claim no credit for this which was done by the British Government in 1920. Well the British Government did a lot of good things as well as a lot of evil things. They did a lot of good things and, when we adopted them, they became ours. But in fact that is not the case. The wording of the election law I read out to you is our own. I am not sure that the British wording was not better phrased but here it was ours. However, that is not the main point. The main point is that I am surprised and rather worried about the fact that the Foreign Minister of Pakistan made a difference, a distinction— and I do hope that some of his very trusted friends will listen to this— which either the United States or the United Kingdom has not made in any plebiscite for over 30 years between an election and a plebiscite. He suggests that it is right in an election not to appeal to these things but that in a plebiscite you can appeal to anything. If that is so then we know where we are.

The next point to which I want to refer is the charge levelled against us in regard to 5 January resolution. I will state, on behalf of my Government, that 5 January resolution elaborates Part III of the resolution of 13 August. It is not a separate document or a separate agreement. After five months of negotiation, the Commission said: If Part I and Part II are observed, we will then come to Part III. Then the two Governments confer. This is a plan upon which you can work. I think nobody put it better than the representative of Colombia whose speech I read. Any kind of contract may be very beautiful. But unless you put your signature to it, it has no value. Here, however, it goes further than that. This is merely a working plan. It is like an architect's blueprint.

If all the blueprints made by architects were buildings then I am afraid the world would be overbuilt. That is the position.

I want to go back to the Commission. The Commission talks about 5 January resolution. Mr. Lozano, who was Chairman of the Commission, makes a reference to this which is contained in the UNCIP third interim report document S/1340, Add. 1, Annex. 8. It is as follows:

> Mr. Lozano explained that the proposals did not supersede Part III of the resolution of 13 August but were in elaboration of it. (Krishna Menon: that is exactly what the Government of India says). They did, however, take priority over the consideration of alternative methods....

That is to say, the Government of India has suggested that while it is true we are discussing plebiscites if we want a settlement why do we not consider everything else? Therefore, Mr. Lozano said in effect, "Let us get through with this plebiscite business and see whether we cannot do it

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in this way. If we cannot do it in this way, we will do it some other way."

The statement of Mr. Lozano continued as follows:

> And every effort had to be made towards putting these proposals into effect.

It was in this connection that Mr. Lozano expressed the view that:

> If the Plebiscite Administrator should find a plebiscite impossible for 'technical or practical reasons', he or the Commission would then recommend to the Security Council a solution different from that of a plebiscite and acceptable to the Governments of India and Pakistan.[1]

This makes it quite clear that 5 January resolution has no life. I think that is the only way to put it. It is inanimate without Part III of the 13 August resolution. The 13 August resolution has the character, I have mentioned to you. It is an obligation upon us after Parts I and II are performed, after law and order is restored, to confer with the other side about the fair means of any plebiscite. Now, how can you get away from that? My colleagues tell me in private that this is against this and that is against that. I want them to answer this question. Just because one promises to discuss a plan, does it mean that one agrees to the principles of it? No. We said "if a plebiscite comes we shall do it this way, that way or the other way".

Great play has been made, both by the Pakistan Foreign Minister and by his friends, of the fact that the first paragraph of that resolution refers to a plebiscite and, they say that it is on this basis that this programme rests and that in order that this may be done a certain course may be followed.

Therefore, I refer you to the quotation I have just read out which is from Document S/1196 Annex. 4. I do so because I do not want the Security Council to be left in any doubt. We would sooner lose a point than try to go behind the Council. If our position was the other way, we would not have been in such a situation.

[1] S/1430/Add. 1, Annex 8, Point 1.

With regard to withholding of information, the Pakistan Government did not convey to the Security Council the information it should have conveyed and the Commission, time after time, had said that this made a difference. Let us take the point that the United States and the United Kingdom are so obsessed about demilitarization. I do not use the word 'obsessed,' except in a very textual sense. Sir Pierson Dixon is a classical scholar and has an accurate mind and so he would not mind.

It is said that demilitarization is the crux of the matter. Now, I invite you to read statement after statement of the Commission where it said that the whole of this demilitarization question had been bedevilled by the fact that after the acceptance of these documents, that is even after 13 August, and 5 January, the Commission came to know about the build-up of "Azad forces", about the creation of an army, about the annexation of territory, about the occupation of the northern areas. In fact, Pakistan disregarded all resolutions from 17 January onwards. I cannot understand this very un-Anglo-Saxon procedure of talking up a thing at one end and forgetting the whole background of it.

The whole of the demilitarization procedures have been bedevilled by this, and that has arisen from the fact that the Security Council was not informed. The Security Council was informed, I think, on 15 January 1948 that the Pakistan Government was not concerned with these marauding raids, and they denied our charges.

They said that they were not there but soon afterwards the Commission found them there. Information about "Azad forces" was also not given. What did the Commission say about it? They said:

> This constitutes a material change in the situation.

A material change is a change that goes to the root of the matter. When you have a material change how can you go on playing about with words that were written

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down without taking that into account? That is why further assurances were to come.

I should like, therefore, to request the Council to read the assurances given by Mr. Lozano to the Government of India in regard to large-scale disarming and disbandment of "Azad Kashmir forces" and the wording used to the Pakistan Government, which, unfortunately, if I may say so for him, the Foreign Minister has quoted. He said: "Disbandment is not contemplated by the resolutions". In other words, what he said was: When the resolution was written, you did not tell us about this; we did not know; and that is why we had to give the assurances.

This habit the Council has been led into, of treating the two sides on the same footing, is what has bedevilled the whole situation. What are given to us are assurances. They are protocols to a document. Others are not; others are just discussions. What the Commission told them was that the resolution did not contemplate the disbandment of the "Azad forces". The resolution could not, because the Commission did not know that they were there. In other words, he is telling them politely: If you had told us, it would have been there in the resolution.

On 19 August 1948, the Foreign Minister of Pakistan, in a memorandum attached to a letter of the same date to the Chairman of the Commission, stated:

> While the Security Council was still engaged on the consideration of the Kashmir case, India was steadily building up its armed forces in Jammu and Kashmir. This building-up process did not cease on 21 April 1948 but was continued and intensified. The Indian Army mounted a big offensive in the beginning of April, thereby, causing a material change in the situation.

The Commission has not said this.

The Foreign Minister of Pakistan continued:

> This offensive action has continued ever since. The publicly declared intention of the Government of India was to secure a military decision in Jammu and Kashmir thus presenting the United Nations Commission with a *fait accompli*. This situation not only put in jeopardy the entire population of the areas under the "Azad Kashmir Government", and led to a big influx of refugees into Pakistan but also constituted a direct threat to Pakistan's security. It was this which compelled the Government of Pakistan to move their troops into certain defensive positions.[1]

This is the defence for its invasion and the fact that it was hidden from the Security Council. This is the Foreign Minister's statement. What is the Commission's answer? The Commission said in paragraph 4 of appendix to the letter of 27 August 1948 from the Chairman of the Commission, in Annex. 27, Document S/1100:

> The Security Council resolution of 21 April 1948, which sets forth the terms of reference of the Commission, was adopted with the cognizance of the presence of Indian troops in the State of Jammu and Kashmir. The presence of Pakistani troops in Jammu and Kashmir, however, constitutes a material change in the situation in as much as the Security Council did not contemplate the presence of such troops in that State nor was it apprised thereof by the Government of Pakistan. The Commission cannot accept the statement in the memorandum that the Commission's description in this respect "is one-sided and inadequate."

I ask you whether that is not, in polite language, a statement by the Commission as regards the Security Council's resolution and the legitimacy of Indian troops in Kashmir and the fact that the incursion of Pakistan elements was concealed from the Security Council, that this was a misdemeanour, an offence against the Security Council and the Charter and, therefore, constituted a material change and it repudiated the undertaking given to the Council itself. This is part of the Commission's statement and I do not see how the Security Council can get behind it.

There are two references to military aid, in one of which our friends of the United Kingdom came in for a reference. There

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[1]Security Council Records, Supplement for November 1948, Page 132, Doc. S/1100.

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is a reference to military aid to Pakistan and economic aid to India. I am very sorry to have to go into this because arrangements between the United States and ourselves and, in the same category, arrangements with Pakistan are bilateral. They are published documents and I hope the representative of the United States will not mind my saying that the greater part of the development expenditure in India is our own money, raised from banks, and by way of loans, and in other ways but when generous aid from the United States comes, it is for specified purposes and we cannot divert it. What is more, it is part of the policy of the Government of India, from which it does not deviate, that for every dollar that is given as aid, the Government of India contributed many times more. Otherwise it would not go into the project, because India does not want any project to become dependent upon foreign aid. Therefore, it is wrong to suggest that economic aid that comes from anywhere else, whether we build plants through Germans or Russians or Americans or the British, by long-term loans or what not, enables us to divert our resources. With a few exceptions this economic aid is not in reference to the feeding of our people but is in reference to future projects. Therefore, it is not as though we take it from a till and give it somewhere else.

I think that this is a gross perversion of facts and something that my Government cannot let pass unchallenged. I think it is a slur on the United States Government because they are extremely careful, so far as we are concerned, as to the way in which money is spent. We are anxious that they should know exactly where the money goes because we have no desire to divert any foreign aid, no matter from what country it comes, whether it be under the Colombo Plan or under a United Nations plan, to any other purpose. To make a statement of that kind, I think is a very unfriendly act to a neighbouring country which is trying its best to live in friendly relations with them.

Military aid to Pakistan, on the other hand, is another matter. There are no published figures on this aid. We have some idea of it, however. No one knows the quantity of this aid and, what is more, it is very difficult to calculate the quantity of this aid in dollar terms, because a great part of this equipment is the material which was left over from the previous war and which is good enough for use in fighting against us. All we can say is that the quantity of the United States aid, as the Prime Minister stated several times last week, is very considerable, and is so considerable as to challenge our security.

I have stated more than once in the Security Council, and I must repeat it now, that we do not question the assurances of the United States Government that this aid is not given for that purpose. But we deny that the United States is capable of preventing the receiver from using it for whatever purpose it wants. That is our position.

A reference has been made to our purchase of bombers in the United Kingdom. The purpose of all this is to create an atmosphere to show that we are embarking upon a large-scale invasion. I am very sorry that this reference has been made because these Canberra bombers from the United Kingdom have been the subject of negotiation for two or two and a half years. In fact, I believe that I started the negotiation myself. The negotiations have been going on for a very long time. The British are very slow in deliveries because of their own commitments and everything else, and we are very particular about getting them on terms that are suitable to us. Bargaining goes on and the arrangements go on and all this was finalized the other day. The Government of India deeply regrets that from some source in the United Kingdom, not connected with the Government, it leaked out into the Press at a time when this discussion was taking place. It has been synchronized purely from a propaganda point of view. This transaction

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constitutes a normal replacement. When the British left, there were other bombers which belonged to a period of ten to fifteen years ago. If one has an air force, one might as well have it equipped with modern aircraft. That is all there is to it. It constitutes an ordinary replacement for the bomber force of the Indian Air Command.

A reference was also made to India's retention of large quantities of military material that were left in India by the British. I am asked to make an emphatic repudiation of this statement, and to express our surprise that the Foreign Minister of Pakistan, even though his relations with his Government in an official capacity are recent, should have been guilty of this statement. The moment that partition was decided upon, we set up a Partition Council on which our two sides were represented and arrangements were made. What was due to them, we have given them. Where it could not be given, we had paid them for it. I think, if anything, the balance was the other way round. Therefore, there is no truth whatsoever in that statement, and I am sure, that if there was any truth in it they would have motivated the British to do something about it.

Repeated references were made about Indian troop movements. The purpose of all this was to convey the impression—not so much to the Security Council but to the world—that India was preparing for aggressive action. It is not a secret that India has an army, and we hope it is a good army, if the time should come to test its strength. There is nothing very secret about these troop movements apart from the normal secrecy which the military maintains. It is not usual to refer to troop movements in a public debate of this character and, quite frankly, I do not know how much of this is what the United States would call classified information. However, since we have been challenged on this, we might as well speak of it. I am authorized by the Prime Minister to state that the whole orientation of this, in the sense of troop concentrations anywhere, is entirely false. I have stated this once before.

A reference was made to the movement of the 166th Brigade (5th division) from Dalhousie (Punjab, India) to Pathankot on the Indo-Pakistan border. This is a normal process which has taken place from British times—it has certainly taken place from independence times. That movement had nothing to do with this particular year. It is something which takes place at this season. It is the normal process of moving troops in this season of the year. We could not keep them at Dalhousie at this time. It is quite a normal practice for a brigade, upon completion of its training, to return to its permanent location.

A reference has been made to the 123rd Brigade. All I can say is this: there had been no addition whatsoever to the strength on the East Punjab and West Pakistan border. I submit this as a solemn statement on behalf of the Government of India—we have not indulged in any troop concentrations; in fact, our normal defence against Pakistan, if there should be any trouble, would be by our armed police. It has not always been satisfactory but it is far better to take the risks of being hit once or twice rather than to take the risk of a general scuffle. A reference was made to the 27th Division. Here again, there has been no change whatsoever—no change in the formation, no change in the units, no change in the strength.

A reference has been made to the 2nd Armoured Brigade. My colleague, the Maharajah of Patiala who sits behind me, knows that this Armoured Brigade has been in Patiala for the last six years.

The Security Council was informed that the First Armoured Division is now in Jhansi, presumably, banking on the fact that the Security Council would not be familiar with the map of India without looking at it. For, Jhansi is very far from

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the Pakistan border. In fact this regiment had been at Jullundur before it was moved further away to Jhansi. I note a mark of impatience on the faces of some members which I can quite well understand. I did not want all these details to be given, but when a government is charged with concentration of troops and preparing for war, it is necessary to clarify the position. We have done nothing in that direction even though we have knowledge, through our intelligence service, of preparations on the other side, and the danger which we are facing. We do not want to be put in a position before the world that we have gone into mobilisation, and we do not want our people—and this is our greater concern—to get into a war fever. For those reasons there have been no changes whatsoever, and I repudiate every one of the insinuations contained in those statements.

I come now to the question of censorship of the press. I hope the United Kingdom representative will have something to say on this score. I should like to ask him, through the President, the following question: If a United Kingdom national had been manhandled, would not the United Kingdom Government have taken some action in the matter—privately, publicly or otherwise? Since the United Kingdom representative has told us that we are three equals with him in Asia, perhaps he would tell us some time whether his Government has any reason to protest.

It is significant that the United Kingdom newspapers which have been quoted by the Foreign Minister of Pakistan are of a particular character—and it is not my intention here to use invectives, because I am polite. The *Daily Mail* and the *Daily Express* have been quoted by the Foreign Minister of Pakistan. The Kashmir Government has looked into the matter and it has denied a report broadcast by the B.B.C. and Pakistan Radio—there is a relationship between the B.B.C. and the Indian Radio and the Pakistan Radio and, therefore, when the Pakistan Radio broadcast something the B.B.C. picks it up as normal news—to the effect that two British correspondents, who visited Kashmir, were attacked by hostile crowds and were unable to leave their hotel. A press note issued by the Kashmir Government reads as follows:

> There is no truth in the report broadcast by the B.B.C. and the Pakistan Radio that two British correspondents, visiting Kashmir, had been attacked by hostile crowds and were now unable to leave their hotel. The two correspondents, who arrived in Srinagar last week, have been afforded all facilities and treated with the utmost courtesy by all concerned. They have been moving about freely, interviewing people. The allegation that the two correspondents were attacked by hostile crowds is presumably based on a minor incident which took place a few days back when there was a demonstration in Srinagar in connection with the Security Council's latest resolution on Kashmir.

And I suggest that demonstrations take place in this country too, when there are draft resolutions before the United Nations. Our people are allowed to demonstrate. No one was manhandled. I continue to quote from the Kashmir Government's press note:

> The two correspondents, accompanied by a State Government information officer, were going in a jeep when they were caught up in the midst of a group of demonstrators. It is true that the demonstrators were excited, but at no stage were the correspondents attacked or hurt in any way. All the same, they were afforded adequate protection by the Police. The allegation made in the B.B.C. report that "they were kicked and punched and red hot charcoal poured from braziers" is absolutely baseless. The two newsmen continued to enjoy the various facilities extended to them and have been visiting places. On Sunday (Krishna Menon: That is, two days afterwards) they went to the Moghul Gardens and, today, they have gone out duck-shooting.

I submit that the correspondents could not have been very badly burned if they were able to go out duck-shooting. I continue to quote:

> The Jammu and Kashmir Government wishes to make it clear that foreign visitors to Kashmir can, as in the past, look forward to all facilities and courtesy due to them as tourists.

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In fact the Kashmir Government has a vested interest in this matter. A considerable part of its revenue comes from tourist trade and it, therefore, does not want to make any difficulty for anyone wishing to come to Kashmir.

I shall not repudiate everything else that has been said by the Foreign Minister of Pakistan in this respect. I would only say that all United Kingdom newspapers which have been quoted by him are newspapers which for more than a generation have attacked Indian independence. These newspapers have been against the national movement in India. This does not, of course, mean that the United Kingdom Government or the British people are against that movement. In every country there must be different organs of opinion. But the fact remains that the newspapers quoted by the Foreign Minister of Pakistan have been against Indian independence and have been particularly bad in reporting news so far as we are concerned. I have no doubt that some of these reporters wrote one story for newspapers and told a different story to other people. These are the facts.

At this stage, I should like to read out to the Council, extracts from a syndicated column by Mr. Elmore Philpott, a Canadian Member of Parliament, which appeared in the Canadian press a few days ago. We have ascertained that Mr. Philpott is a gentleman of high repute whose opinions are respected. In his weekly column, Mr. Philpott accused the Western press as a whole of being unfair to Prime Minister Nehru so far as his stand on Kashimr is concerned. Mr. Philpott said:

> It never was true that the Indian Army 'seized' Kashmir as many American newspapers are now stating with a complete disregard for actual facts.

Recounting the sequence of events in which "Kashmir was actually invaded by wild mountaineer tribesmen on 22 October 1947, the orgy of violence and destruction" that went on and the signing of the instrument of accession by the Ruler of Kashmir, Mr. Philpott said:

> While it is true that the Ruler of Kashmir was a Hindu it is equally true that the victims of the invasion of Kashmir were mostly Muslims. (Krishna Menon: I would remind members of the Council that I have already informed them of this fact) and the whole Muslim population of the Valley of Kashmir was frantically appealing for protection from the wild invaders... The Indian Army at that time was still under the command of British officers. (Krishna Menon: The Commander-in-Chief was General Lockhart) A combat team of 355 men was flown in one of the most timely and clever airborne operations of our times. A small force arrived literally in the nick of time to save Kashmir, not so much for India, as from the violence of the mountaineer invaders. It was considerably later, when the Kashmir trouble degenerated into an actual war between India and Pakistan. For weeks or even months after the original outbreak, the Pakistan Government tried to convince the world that it had no direct part in the events in Kashmir. Time after time the United Nations arbitrators have found that Pakistan has no *locus standi* in Kashmir on any basis of legality....Mr. Nehru told me in 1951 that he was completely in earnest about permitting a free vote in Kashmir. But he insisted that Pakistan must meet certain prior conditions including complete withdrawal of her armed forces from all disputed territory before the vote.

I have already stated our position with regard to a United Nations emergency force. I shall refer to this question again when we reach the stage of discussing the draft resolution.

I have no desire to go into the anecdotes and fables mentioned by the Foreign Minister of Pakistan. I would only say that I deeply regret the way he has chosen to treat this subject so far as we are concerned. The Security Council must be the judge as to the manner in which we have presented the facts as we see them and have sought to rely on available documents.

At this stage, I should like to make the position of the Government clear beyond any possible doubt. Whatever I say in this connection must be viewed in the background of history—which has been submitted to the Council on many, many occasions and in the light of all points that have been outlined

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to the Council with respect to the position of Kashmir which is not a no-man's land.

When on 1 January 1948 we submitted a formal complaint to the Security Council under Chapter 6 of the Charter we were not asking the Council to settle a territorial dispute. I would ask members of the Security Council whether they can show me any evidence anywhere to prove that a suggestion of this kind was made. We came to the Security Council to ask its assistance in obtaining, under Chapter 6 of the Charter, the vacation of an aggression. We informed the Council that if that were not done other consequences would follow. Without withdrawing that position I would say this: at the request of the Security Council and some of Mr. Jarring's predecessors, as Presidents of the Council, we expressed our willingness to consider various methods for a pacific settlement. And I would emphasize that we brought this matter to the Council under Chapter 6 of the Charter—a fact which seems to have been forgotten. We could have invoked Chapter 7 but we preferred to invoke Chapter 6. Under specific methods for a pacific settlement, various plans have been suggested. I would submit to the Council that the essence and basis of all these procedures—whether resolutions of the Security Council, the requests we have made or the caveats we have entered and accepted—is that whatever may happen in the future, the territory of Kashmir is an integral part of the Union of India, that an aggression has taken place, that the Jammu and Kashmir Government is a sovereign Government, that India is responsible for the security and internal order of Kashmir, that peaceful conditions must be restored before anything else can be done and that accession is a continuing accession, capable of termination by the Government of India. Furthermore, we have obtained assurances which are incorporated in a resolution passed by the Security Council itself that the only legal authority that can do anything in the State of Jammu and Kashmir is the sovereign authority; this has been emphasized time and time again. Thus, all the procedures which have been before us have been pacific procedures. In pursuit of the carrying out of these pacific procedures, two resolutions have been adopted. The Government of India, therefore, requests the Security Council to consider, after nine years, whether these pacific procedures have been followed or if they have been violated. Of course there are minor violations in all procedures. There are minor violations by either side. But are they violations that go to the root of them? That is the first point. The second is whether these procedures are vitiated by concealment of facts and, therefore, the whole basis of the approach disappears. Therefore the Government of India asks compliance with section B of Part I of 13 August 1948 resolution which is not observed by the Pakistan Government and is, therefore, a violation of the cease-fire order.

The Foreign Minister of Pakistan said that if there were violations of the cease-fire order, the observers would report the violations. In fact they do; there are violations; sometimes there are violations from our side. Somebody goes this way or that way. Sometimes they come in. They are reported and the matter is settled. But it is definitely laid down in the cease-fire agreement which concerns the observers that they have nothing to do with political questions. This is a political question. And this is what it says. Paragraph B of Part 1 reads as follows:

> The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment the military potential of the forces under their control in the state of Jammu and Kashmir.[1]

The Government of India categorically states that since the adoption of 5 January resolution, Pakistan has introduced into the territory of Kashmir occupied by it, very large quantities of military equipment; it has

[1] UNCIP resolution of 13 August 1948.

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created air-fields and has made it a base of attack against us endangering our security. Therefore, before we proceed any further, before we even talk about Part II, the Security Council, I submit, has a duty in regard to this resolution. There has been a tendency to talk about this as though this is what we undertook with Pakistan and Pakistan undertook it with us.

The Security Council told us: "You people settle this on this plan". Therefore, the Security Council took over. Therefore, their moral responsibility is certain and whatever legal responsibilities can be brought to its door under the Charter,—it must see that this is carried out. The Government of India is entitled to ask today after nine years why the material brought in after the cease-fire order, apart from all questions of demilitarization, is not removed. Secondly, Part B does not require any action. In fact, it does not call for any action from India at all. It is an action that the Pakistan Government has to take, not only in pursuance of this resolution but also in pursuance of the resolution of 17 January, which they not only violated but in which they acted in concealment, acted in such a way as to conceal facts from the Security Council. Any Government that is guilty of concealing material facts is out of court before the Security Council. Therefore, the Government of India requests the Security Council to interest itself in its responsibility as one of the parties to this matter and to point out that Section B, Part I, of 13 August resolution order is being violated.

Part E of the agreement states:

> The Government of India and the Government of Pakistan agree to appeal to their respective peoples to assist in creating and maintaining an atmosphere favourable to the promotion of further negotiations.

I have made statements and produced evidence before this Council many times. I did not have too much difficulty because the Foreign Minister of Pakistan himself produced evidence by his statement. His first speech was an ultimatum to the Government of India. Here are reports from the press in Pakistan which refer to the preparation of the tribesmen for the invasion of Kashmir and these were not non-Pakistanis. Baluchistan is a part of Pakistan. These are persons who are in an official position in relation to all this. I quote from the *Dawn* of 7 February, 1957. The *Dawn* Quetta correspondent wrote as follows under Quetta dateline of 6 February:

> A deputation of Afghan Pawindas of the Tarak tribe today waited upon the Political Agent of the Quetta-Pishin area and offered their services for the liberation of their Kashmiri brethern. They said that the Tarak tribesmen were ready to sacrifice their all to liberate their Kashmiri brethern from Bharati (Krishna Menon: That is us) tyranny. The deputation considered of Malik Khurran Khan Taraki, Malik Akko Khan and Malik Abdullah Khan Hotak.

Here is another article from the *Dawn* with the Rawalpindi dateline of 8 February The article states:

> 'In the event of the Security Council's failure to bring Bharat (Krishna Menon: That is India) to reason we shall not hesitate to revive the liberation war to free our enslaved brethren on the other side of the cease-fire line.'

Says a resolution passed recently at a representative gathering in Skardu:

> We are much perturbed at seeing our brethren in occupied Kashmir marooned into an unconstitutional accession.

Here is another article from the *Dawn* with Quetta dateline of 9 February:

> Mir Habibullah Khan Nausherwani (Krishna Menon: I suppose he is the head of the place, the former ruler of Kharan State) today said that he, along with his tribesmen, was ready to sacrifice their all for the liberation of Kashmir. He has requested the Additional Commissioner, Kalat Division, to convey his offer to the Pakistan Government.

The duty of any civilized Government today, when a citizen of that kind offers to attack a neighbouring country, is to have him taken under their law. Pakistan owes an obligation to the international community, when any citizen of theirs makes statements of this kind, to take action

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against him. But instead of that, our information is that very considerable concentrations are taking place, and as I have stated before in the Security Council, the pattern is exactly the same as it was in 1947. It is our duty under the Charter, and I say this with all the feeling I personally have and that my Government has about war, if our territory is invaded, to resist that invasion.

I am directed by the Government of India to repeat what it has said before that any invasion of any part of India is an invasion of the whole of India. The Government of India would regard an attack on Kashmir as an attack on India and would take action accordingly. That was their position from the very beginning because Kashmir is part of India. Therefore, any attack on Kashmir is an attack on the whole of India.

We came here on the last occasion to save ourselves from this position. We said to the Security Council: "Thus attack means that we have to invade Pakistan. We do not want to do that. Please ask them to go away." And this is the result. Therefore, in the first instance, the Government of india seeks from the Security Council some consideration. Instead of concentrating all its attention on matters which are incidental to so many things happening beforehand and which are not integral to a settlement, it should obtain the observance of these conditions or declare them aggressors. They have to withdraw and it does not require any action from anyone else. I read out to you the Commission's report that they knew that the Indian forces were there and the responsibility they had for the defence of India. Therefore, with regard to Sections B and E, the Government of India request that this action be taken. The Government of India request that note be taken of the fact that according to their constitutional procedures, according to their public opinion and according to constitutional and international law, an attack on any part of a country is an attack on the whole.

With regard to the remainder, I have gone into the details very many times about the withdrawal of the Pakistani troops. Part II, Section A, of the 13 August resolution states:

> As the presence of the troops of Pakistan in the territory of the State of Jammu and Kashmir constitutes a material change in the situation since it was represented by the Government of Pakistan before the Security Council, the Government of Pakistan agrees to withdraw its troops from that State.

I submit that is not a conditional offer. It is an offer *per se* because it is more or less a penance for concealing the facts from the Security Council. The Pakistanis have come here and said: "We are not invading. Our troops are not there". When they were found out the Commission dealt with them politely and merely said that it was a material change.

The Foreign Minister of Pakistan has quoted Sir Owen Dixon whose opinions have not been favourable to us, but he is a high judicial luminary and to suggest that he made an observation in order to get India's agreement—that is the phrase that was used—is, I say, a very serious statement to make about the Chief Justice of Australia. But I have quoted the whole of the paragraph—so has the representative of Pakistan. What does it say? In effect it says the following:

> I cannot go into this question of aggression. I am not going into it, but irrespective of that, I say that there has been a violation of international law when they crossed this territory.

That is not to say that this is conditional upon something else. What he was saying was this: Whether there were previous factors, as Mr. Zafrullah Khan urged in this Council, or whether there were other matters to be considered, first of all, he was not entitled to go into them, but, without all that, he would say: "There has been a violation of....territory". There was a

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breach of International Law, which is aggression. And, I submit, that to suggest that Sir Owen Dixon said this only in order to persuade my Prime Minister to agree to something is, in my view, a reflection on character which, we regret, has been made about the Chief Justice of Australia.

Therefore, Paragraph 1 has to be observed and that observance, I submit to the Council, does not require any action from anybody else and, what is more, it is an action that is called for, precedent to anything. Therefore, Section B of Part I, Section E of Part I, and Section A of Part II, are conditions, are actions, that have to be taken by the Government of Pakistan and out of consideration for the agreements which it has entered into; furthermore, and, above all, in pursuance of this resolution of 17 January, and even further in pursuance of respect for international law and behaviour because assuming for argument that there are flaws in our title, how did Pakistan come into Kashmir? It came in only by invasion. What has the Security Council done about asking Pakistan how it incorporated this territory? What has the Security Council done about asking these people whether the populations in Gilgit or in western areas in the so-called Azad Kashmir or in Baltistan have a vote? Can they express themselves? Why do they not have these things? Is there any economic development? No, they have been prevented by the occupation; and the efforts of the Kashmir Government and our Government have been to try to bring political liberty and economic emancipation to the area.

So, the next point which I wish to make is that Section A, Paragraph 1 of Part II has to be carried out. The same applies to Paragraph 2 as well. Then comes Paragraph 3 on which the Foreign Minister of Pakistan entered a caveat when he spoke last and which I have explained today. There is no doubt whatever from the wording of this paragraph and supporting documents in this matter that the administration of this area must be by local authorities; that is to say, there should be no Pakistani interference. It is not Pakistan's sovereign territory and it is the duty of the Government of India, under the subsequent paragraphs, to go to the assistance of the people there if there should be danger of an invasion. I make a further request to the Security Council. Faced as we are with this present situation in which there is a campaign of hatred, the Government of India believes—and I hope that the Security Council believes—that, apart from all agreements, it is a basic condition that no pacific procedures are possible except in a pacific atmosphere and, therefore, Section E of Part I becomes fundamental to any procedure. How can there be a plebiscite or anything else without pacific procedures? How can there be pacific procedures under threats of war and of *Jehad* and a holy war and the invasion of our country and name-calling all the time? Unless there is an alteration in the situation, it is quite impossible to achieve any settlement or any approach towards a pacific settlement. In any dispute that is important and, therefore, it is more important with us.

We are quite prepared at all times to seek methods of conciliation. The Government of India, therefore, desires me to state that, having regard to the security of India, its north-western borders today are threatened by an army which is out of proportion to what it was before—and I repudiate the assertion by the Pakistan Foreign Minister that his country's army is one-third the size of India's army and I am prepared to substantiate it in any place. I repudiate the suggestion that its equipment is anything like that, and what is more, we desire to point out that the imbalance that has been created has resulted in insecurity for us and, therefore, the Security Council has the responsibility for implementing the basis on which all these considerations have taken place.

The Government of India alone is responsible for the security of this territory.

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Therefore, when the time comes—if it should ever come—we should be free to protect our frontiers. That would not be aggression. But, at the same time, I repeat the solemn undertaking that I gave in the Security Council: The Government of India will not move one soldier, nor fire a bullet across the cease-fire line in order to assert its legal, constitutional, moral and political rights. It is still prepared to pursue the path of conciliation, the path of negotiation, the efforts of the Security Council or the influence of time. But that does not mean that we shall surrender any of our rights, because if this happened to us our country would be balkanized and, strange as it may seem, we have a patriotic fervour about its unity.

Therefore, I request that the Security Council would not think that we have not made any specific request in this matter. We believe that a pacific settlement of this difficulty, the resolving of this problem—as it is rightly called in the Colombian amendment—is possible in terms of a different outlook. That outlook cannot be one where the aggressor and the aggressed are treated on equal terms. It is, in our submission, an error to take the view whoever takes it, that the aggression question has been disposed of. It would be a very dangerous precedent for the Security Council to establish that because of the passage of time somebody can reap the fruits of invasion. The position of my Government —whether it be here or in the Middle East or in Central Europe or anywhere else— is that no invading power, no invasion, can be permitted to reap the rewards of invasion. That is our position in regard to Kashmir.

A great deal has been said about the moral position involved in this, and I submit—and I want to submit this with no reservations whatsoever—that the position which we have taken in regard to Kashmir will stand any test of morality. I would like to look at any government and ask whether at a time when its army was marching victoriously it would stop it in order to avoid further bloodshed. I do not say that no other government would have done so; all I am saying is that our Government has done as well as any other.

In regard to Kashmir, we have come here to pursue pacific methods. We are now pledging ourselves not to use force in order to assert our political, constitutional and moral rights and we point out that, within the territory which we are now administering, we have brought the benefits of human rights and civilised existence, and in spite of the fact that Pakistan has the territory, we have taken half a million people who have fled from "Azad Kashmir"—Moslems—since Pakistan occupied it, because of a reign of terror there.

I use these words because they have been used against us—and I ask, do you think that it is possible to have an iron curtain in a country where, in the holiday season, 60,000 visitors, including 5,000 Americans, come in? Can you keep any place private where American visitors go in? Therefore, I submit that we have listened to all this patiently. I submit that it is very wrong—and I particularly look to my friend who is smiling at me—to make use of this forum as a forum for maligning a Government which is trying to follow civilised standards. Our people have the right to vote, to express themselves. That cannot be said of the other side.

Therefore, these are the requests that we make to the Security Council. It cannot be said that the position taken by India was one where it was evading its commitments. In order that there may be no doubt about it, I say that the Government of India will, at no time, resile from any international engagement into which it has entered. But it is not sufficient for the daily press to say what that international engagement is—it is not sufficient even for Member Governments —without getting all the facts of the question.

There appears to be a difference of opinion on this. Fortunately for us, a Colombian was the Chairman of the Commission. So,

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the representative of Colombia has taken some interest in the matter. I ask the members of the Council to read these documents. Let the Security Council say that the assurances that have been given after very grave discussion with the Prime Minister, by the Chairman of the Commission, on behalf of the United Nations, have no value. If the pacts are not to be observed, why should one pact alone be observed?

There is one further point I desire to make and since there is some possibility, Mr. President, of your going out to, what is unfortunately called, the sub-continent, I would like to state the following. What is the present position? The present position is that two or three clauses of the cease-fire agreement are observed. That is to say, not desiring to try conclusions or to assert our rights by force, and Pakistan, also being apparently satisfied with the territory that it has illegally absorbed for the time being, there is no fighting at the present time.

But what is the exact position? I would like the representative of the Philippines to think about this because there are some doubts about it. What the Security Council is doing by this draft resolution is trying to hold the ring for aggression: that is to say, it is because of the security that is provided by the cease-fire line that all this has taken place on the other side. The Security Council's resolution, our respect for the Observer Corps, and our desire not to use force in order to assert our rights, are being used as holding the ring for the invader. It is behind this wall, it is behind this cease-fire line, that the annexation has taken place. How do I explain to my people why the members of the Security Council, sitting around this table, had not a word to say about the illegal annexation of some 42,200 square miles of our territory?

As I said before whatever may be the defects in our title, how do these people come in? They have no right to be there at all. And the Commission said so a hundred times over. The Pakistan Foreign Minister says that the Plebiscite Administrator was not at the beck and call of the Jammu and Kashmir Government; he was not to take orders. But may I say something in this connection as a parallel? We have an Election Commissioner in India. He is paid out of the Indian revenues, but he does not take orders from the Indian Government. He is appointed by the Indian Government, but he does not take orders from the Indian Government. We have High Court Judges in India, who are appointed by the President. They are paid out of the Indian revenues but they do not take orders from the Government. But the reason why it has been put down that the only constitutional authority that could appoint a Plebiscite Administrator is the Jammu and Kashmir Government, is the assertion by the Security Council, things being as they are, of the sovereignty of the Jammu and Kashmir Government in this matter.

That takes us to the resolution. There has been a great deal of criticism of our attitude, fortunately, not in our area. Here I wish to take the opportunity of expressing our appreciation of the press in Burma, Ceylon and Indonesia—I have not had the opportunity to read the Manila press—and increasingly, if I may say so, in Australasia. It takes a long time—there is a lot of water between us—for the appreciation of the position we have taken.

We believe today, in spite of any attitude that may be taken for the time being, that we are subscribing fully to the principles of the Charter. We are resisting the attempt to capitalize from an invasion. We are begging of the Council not to allow the police force which it has put in there—which is what the Observer Corps is; it does not matter what its size is; it is respected—to be there as a ring for aggression behind which there can be built up from the ill-gotten gains of a country that has violated international law, that has concealed facts from the Security Council, that has thrown to the winds all canons of decent behaviour. I withdraw the observation.

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There is one small matter to which I desire to refer before concluding. There has been an attempt in this unfortunate statement, this very ill-conceived statement, contained in S/PV. 770, to put every delegation around this table at logger-heads with us. In this connection, reference has been made to some discourteous observation that I made in connexion with the representative of Iraq. Of course, certain newspapers in some countries will naturally be only glad to say so. But I must say, in defence of my colleague, that he did keep on saying that he did not understand the language, which he was using very well. I do not believe that myself. I did not say that; he said that. Incidentally, may I say that I have spoken to the representative of Iraq and it is up to him to say what he thinks. But, so far as I can understand, he does not take the same view and I have no desire to enter into a controversy about it. But, since it is written down in the document and will be broadcast in the Arab press, I want to make this position perfectly clear. What did I say? I will read the whole paragraph because it refers to Sweden also. I said the following:

> Now we come to the draft resolution itself. There were two suggestions made by the President, in his capacity as the representative of Sweden. I have not referred to the observations made by the representative of Iraq except to say (Krishna Menon: and these are important words) that the presentation he has made does not represent the facts of the situation.[1]

So far as I know, there is nothing unparliamentary in it. It simply says that I do not agree with him. They are not the facts and they do not tally with the facts, but that is not the sentence that he quarrels with. The sentence reads: "It ignores the circumstances but, at the same time, I pay tribute and express my appreciation of his desire to be kindly on the side on which he is not neutral; and that is all I can say". I am the side on which he is not neutral so far as I am concerned. I am entitled to say that. I am entitled to say what is the orientation of his view. He does not quarrel with that. I pay my tribute and express my appreciation of his courtesy.

Then I went on to say: "One must stick to the truth even when one wants to be polite." That "one" refers to me, to Krishna Menon, and not to him. I have to be truthful even if I want to be polite. I am polite in saying that I pay tribute and express appreciation but, at the same time, I must say that this does not represent facts. Now, this is plain, ordinary English as I was taught, and I propose to go to the representative of the United Kingdom afterwards and find out if I am wrong about this.

If I may say so, if there was any trouble in this matter, this is really a matter between the Iraqi delegation and ourselves. It is not part of the atmosphere of the Charter to try and make trouble between various members, especially in the present conditions in the Middle East and in regard to the political alignments in which Iraq is involved and in which we are in disagreement.

I have spoken to the representative of Iraq and I would like his countrymen to know that it is far from my mind to be discourteous and I would be severely reprimanded by my Government if ever I was discourteous to him, not that that would happen. There was no such thing intended, no such meaning is conveyed by these words. I am prepared to think that the Foreign Minister of Pakistan may have, in his general disposition to find fault with what I have said, been led into error. I do not want to attribute motives to him. Therefore, in so far as the matter has been stated, I would, through you, Mr. President, ask the representative of Iraq to accept this explanation—not the explanation saying that it was erroneously meant in the beginning but the explanation of facts—so that his people may know about them. That brings me to the end of my observations in this regard.

With respect to the draft resolution itself, I have spoken at length. Our position

[1] S/PV. 769, Page 58

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remains unchanged. The Government of India cannot be a party to the introduction of foreign troops on the sovereign territory of India and the whole of our case rests, has rested, and will rest, upon the view that Kashmir is a constituent State of the Indian Union. Any soldier who sets foot on the Kashmir soil, whether it be in the illegal occupation by Pakistan or under the administration of the Jammu and Kashmir Government as a part of the Union, will, in our view, be violating the sovereignty of the territory unless it is with the permission of the Government of the Indian Union, because defence and foreign affairs are the concern of the Government of India.

Secondly, I should like the Security Council, apart from these considerations, to take very seriously into account what it is really proposing. Here is a territory where until now—although there are a lot of people who do not like us—there have been no communal disturbances. There are, perhaps, individuals making trouble, but apart from that, there have never been any Hindu-Moslem difficulties in Kashmir. Progress is taking place and a very large section of the people are against any unsettlement of affairs or interference with them, and it is necessary in the present conditions for the Government to put an enormous amount of effort into reconstruction. Does anyone believe that if the forces of Kashmir police and militia and the supporting forces of the Indian Army—who did not go to Kashmir against the Kashmir people, but went there against the invaders who committed plunder and rapine, mostly against Moslems and Christians, but on others too, of course—does anyone believe that when those forces are withdrawn, it will be possible for such a modicum of troops, as may be produced by the Secretary-General, to maintain order in the territory? Would they ever be able to have anything other than the character of an army of occupation? Would not this mean that those troops would take over the Government of the country under military administration? What would happen in the Pakistan areas of Kashmir—and I am stating my position which the Pakistan Government denies? We see that the Pakistan side of Kashmir is seething with discontent. The effects of oppression are coming out and the territory is split from top to bottom on this issue. There is a considerable demand for union with the rest of India because they can see on the other side, if nothing else, prosperity, opportunity and, what is more, the right to elect their own rulers.

It is not a small thing that, in a feudal state of that type, in five years time, they have not only displaced the old Maharajah and done away with the dynasty but have elected another man who has to seek suffrage every five years. Therefore, any conception that the authors of the resolution may have in their minds, that they are undertaking some simple operation, something which is practicable, is mistaken and it is my duty, as the representative of a Member State of the United Nations, to remind them that their conception is one which is totally impracticable and is calculated to create trouble in the country, to throw it into civil strife and bring back the memories of foreign occupation.

To take foreign troops into any country that has formerly been colonial is to rub the wounds which are only just beginning to heal, and there can be no question, at any time, that this can happen. The Government of India cannot depart from any of the basic positions that I have stated. Equally, it will not depart from its determination to follow the paths of conciliation and that is why we have said that if your distinguished President, under the authority of the Security Council, or in his private capacity, were to come to India, our hospitality would be open to him. That hospitality, however, does not extend to the terms you are seeking to impose upon us. They are two different things. Therefore, with certain alterations—if the Security Council found itself a way to follow the line taken by the representative of Colombia—it might be that some other way would

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be opened. If you are still relying on the resolutions of 13 August and 5 January, making the reservation that we have no intention of violating the cease-fire line, if you are still relying on those, then start with Part I. Let Sir Pierson Dixon address his mind to Part I on the subject of demilitarization. We have no objection to the word demilitarization if it means that, to start with. The other day I read out to you a passage from Oppenheim which pointed out that any treaty which a country might enter into was bounded by considerations of its security, and it is our duty in the present condition not to refrain from informing the Security Council of the threats, of the ultimatums, of the mobilization of troops, of this propaganda of hatred and of the enormous quantity of military material which is being flown into this area.

I wish to make one final point before I conclude, and this largely relates to the moral position which people have spoken about. We do not seek to take up a moral position in the world but the newspapers speak about it. We are only one country among 80, we have no special position of any kind and we must ourselves be able to judge the situation. Reference has been made to arbitration—such a reference has been made several times, not only by the representative of Pakistan but also by others, and it has been stated, with some degree of distress of mind, that at one time we refused to go to arbitration. Again, arbitration is a word like plebiscite which can be bandied about. I have never heard of a plebiscite being taken in one of the constituent units of a Union. I should like to draw your attention to the fact, which I have set out before, that the arbitration tribunal, in this particular case, was asked to set down questions that it was going to arbitrate upon—and that is unusual procedure but over and above that, certain other things happened. First of all, in making these proposals for arbitration the Commission was acting *ultra vires*. It had no authority to do that; its business was conciliation and there was violent disagreement in the Commission itself on the suggestion which was only adopted by a small majority.

There is another matter to which I have not drawn attention largely out of courtesy to the United States and to the United Kingdom, but if you will push us, then we have to speak. This arbitration was a secret offer of the Commission but before it was presented to the Government of India and the Pakistan Government, it was placed at the disposal of the United States and the United Kingdom and President Truman and Prime Minister Attlee, in a synchronized action, publicly intervened. I know both those gentlemen personally and have had many dealings with Prime Minister Attlee, but the intervention made by the United Kingdom and the United States was of such a character that no self-respecting government could have accepted it.

However be that as it may, here was a secret offer made by the Commission which was not under orders of the United States, the United Kingdom or any other member of the Security Council, but was independent; why were its terms given to these two Governments, and why were they asked to put pressure upon us, and why was that pressure put in terms in which it was put? What is more, the verbatim text of the secret arbitration memorandum came into the hands of the British High Commissioners in New Delhi and Karachi at the same time as, or even sooner than, it was officially presented to the Government of India. How do we tell this to our people even if we wanted to? We have ceased to be a British Dominion—to the advantage of both of us. This arbitration offer was published and was known to the High Commissioners in Karachi and New Delhi even before we knew anything about it. And though much pressure was put on the chairman at the time to make an investigation into the integrity of these proceedings, nothing was done. That is the position about arbitration. Now I say that because our main

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position with regard to arbitration is normally as provided for under the Charter, if we should avail ourselves of it, the procedure must conform to international practice. It is not international practice for the arbitrator to decide what are the terms on which he is going to arbitrate. The parties must decide between themselves or there must be some terms of reference; otherwise the whole basis of judicial proceedings disappears. Now this is elementary law. It is ordinary international practice. But, over and above that, these papers were before me when I addressed myself to this matter. I thought it would pass over. Indeed, if only the distinguished representative from Pakistan had not referred to it again, I would not have brought it back. After all, it is his business to do everything he can to present his case. But there were doubts in the minds of other members of the Security Council.

Here is India which is pleading for conciliation in many cases in these buildings and has used its efforts in a moderate way in that direction. When it comes to itself, it refuses to accept arbitration. Putting it in that way, and that is how it appears elsewhere, it looks very bad. Therefore, we had to review the facts.

First, it was not an arbitration as understood. Secondly, there were pressures of this kind. The action was *ultra vires*. What is more, it was done in a way in which no government could sit back and say: "We are going to accept orders from anybody else." We regard the intervention, made at that time, as improper and we said so. We had no quarrel with it because it was done in the best of motives. Both these gentlemen concerned are very good friends of India. And there the matter rested. Why it should be resuscitated at this stage, I do not know. I apologize to the distinguished representatives of the United States and the United Kingdom for referring to this matter. But they will appreciate that it cannot be one way; even the worm turns sometimes. I say once again that I have spoken on behalf of the Government of India, not in defence but as plaintiffs in this action. We are plaintiffs in this action, we invoke the provisions of the Charter. We asked the Pakistanis to come here with us for a joint settlement. They refused; Prime Minister Liaquat Ali Khan refused. On 22 December 1947, we terminated all that. We came here to take advantage of the provisions of the Charter. We asked this Council to ask them to withdraw from this aggression and to do what was necessary. It is quite true we did not ask you to brand them as aggressors. But is that a fault on our side? If it is a fault then we plead guilty to it. It is a fault which we would not be ashamed of being guilty again. But we came here to ask you to prevent the development of events which would lead to a war between our two countries—for they had been fighting for several months—soldiers who had belonged to the same divisions, same companies were on either side killing each other.

So far as we were concerned, that is why we agreed to the 13 August resolution without any trouble. Pakistan dragged on for five months so it could get military advantages. I want to remind you again that we withdrew from those advanced positions. Does anybody around this table believe that in 1947, soon after the British left India, the Indian Army was not in a position to establish a military decision right up to the frontiers of Kashmir? I do not think anybody believes that.

Therefore, we came here under Chapter 6 for conciliation. I think it is a poor service to the Charter, it is a poor service to the confidence that the vast majority, not only of the people of our country, and I make bold to believe from what I have seen in newspapers, that the vast population in our part of the world, share this view. It is a poor service to all of them to leave this matter in such a way that the original factors are forgotten. And then the Security Council

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fixes its mind upon two words, "plebiscite" and "demilitarization"—two disembodied ghosts who must seek sustenance in a large number of misrepresentations.

What is more, we ask the Security Council to give us the answer that we can give to our people. What is the value of assurances given to us by the Commission on the basis of which alone, and I repeat, on the basis of which alone, we accepted these documents? My Government would never have accepted the documents except in the light of those assurances. What would have been the answer of my distinguished colleague from the Philippines if, at that time, we had said: "Oh, No! Your assurance is not good enough for us". Then we would have been told: "You are unreasonable". Were these private assurances? No, they are in the form of publications in the same way as the official records of the Security Council.

I ask the Security Council to reconsider the submission made by General Romulo the other day that we were remiss in thinking that there was something casual about the way in which this was treated. That is not so; it is because we are conscious of the multitude of those people. If there is one thing in our country today, our people, large or small, leaders, big or high or low, they are conscious of the pulse of public opinion. There is this enormous political, civil, social consciousness in our country. We would not by any step we might take, however unpopular we may be at the time, however much we may appear not to be listening to the majority that speaks here, we will not throw our hand in on the side of violence—and this procedure is promotion of violence. There is a duty laid upon you today, not for injunctions upon us, but injunctions upon them to withdraw from the territory, to stop this campaign of hatred, to rescind the provisions of their constitution, to restore local authorities, to place them under a United Nations commissioner in order to enable the Government of India to protect the frontiers of India and the track routes as are necessary. These are obligations that rest on the Security Council. This is my submission.

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VIII

20 February, 1957

I am grateful to you, Mr. President, for the opportunity which you have given me to intervene again, but in the interests of the Government of India, I have to say, that, if after the observations which I submit, the representative of Pakistan were to offer observations, I would be entitled to reserve my position to reply to them, since this Council has now been convened at the request of Pakistan.

I recognize that we cannot go on interminably answering each other. But we are in a position where, the session has been convened at the request of Pakistan, and the draft resolution is in its support. Therefore, the right of reply rests with us, so far as it goes.

There have been a number of statements made and the position of my Government here, as I have said several times before, is that the Council has kindly invited us under Article 32 of the Charter. Therefore, the Government of India does not propose to take a position on the draft resolution of support or opposition because it is not required to do so; but it is entitled to offer its observations as to what it would do, what it thinks about the draft resolution, what the consequences would be. In doing that, I have no desire to make another intervention of any length, but merely to deal with what has been said since I intervened this morning. In so doing, if I may be permitted, I should like to proceed in the reverse order dealing with the last two military allies of Pakistan, the Philippines and Iraq who have spoken, and come to the main proposals afterwards.

I should have said this morning—but for various reasons it escaped my mind—that the representative of Iraq, who made a very courteous and gracious reference to me, for which I am grateful, has brought this matter to the forefront. He used the words, "the single and continuous process".

This arises from the position of Mr. Graham—and again I say that we regret not having heard him at this meeting—so far as my Government is concerned—and it enables me to say two things. First of all, the interpretation of the single and continuous process that the representative of Iraq places upon them is as erroneous as almost every interpretation he has placed on all the Security Council decisions; that is to say, it takes the Pakistan view of it which has not been either accepted by the Commission in the past or is supported by the basic decisions. What is more important—and we want to put this into the record—the Government of India is no longer committed by any intermediate discussions that have taken place, by any hypothetical propositions that have been put to them, or by any mathematical calculations made by Mr. Graham at various times. All these things were a part of the procedures to find a settlement.

If the bargain had been closed, we would be bound by it. We have been bitten so many times, especially when we just heard the representative of the Philippines, on which statement I shall comment in a moment. We have no desire at all for the Security Council to misunderstand this position. It is wrong to say that some advance has been made in regard to demilitarization. The only advance that has been made in regard to demilitarization—and it would be useful for the Council to know it—is the voluntary withdrawal by the Government of India of large numbers of troops from

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Kashmir since cessation of hostilities—for which the Council has not been gracious enough to say one word of appreciation—without any conditions whatsoever.

So that, with regard to these references to the single and continuous process, the simultaneous withdrawals, synchronized arrangements, all these things and all these words have been differently interpreted by the UNCIP, by the United Nations representatives afterwards; and whatever discussions may have taken place either in New York, Geneva, New Delhi, Karachi, Paris or anywhere, they are all today only a part of the historical material; they do not commit the Government of India to anything because there was no closing of any bargains and it should not be said afterwards that where it is advantageous to one side, that is taken as a commitment and, where it is not advantageous, it is pointed out against us.

Therefore, the only engagements from which we can proceed, in so far as we can do so, are the engagements to which we are parties in the context of all circumstances submitted. Therefore, I would like this particular factor to be written into the record, so that in the event of the matter coming up again or having anyone else intervening, whether it is your distinguished self, Mr. President, it should not be thought that now we have gone back on something else because, unless this attitude is taken, it is impossible to discuss anything, any *pro tem* proposition, any exploration; any thinking aloud becomes dangerous because at that moment we will be pinned down to it. What is more, the whole surrounding circumstances have to be taken into account.

I prefer to make no further references to the Iraqi intervention because it will take too long, except to say that the whole analysis is contrary to the facts of the case, contrary to the commitments made by the Commission, contrary to the principles of the Charter and contrary to the assurances given to us. It is a statement of good advocacy on one side for which we have respect but for which we cannot be grateful.

With regard to the Philippines position, we repudiate, and emphatically repudiate and will continue to repudiate the position that the United Nations has not, at all times, been committed to the position of the sovereignty of the Jammu and Kashmir Government, of the competence of the Government of India, of the Union of India, for its external defence and its foreign policy and for the position that, whatever may happen in the final settlement, until that final settlement is reached, it is a part of India.

That is why a plebiscite administrator had to be appointed by the Jammu and Kashmir Government. That is why, as I said this morning, we became responsible for law and order. We could go into the other lines but all kinds of things in that way were provided. That is an essential basis. It was not a contingent proposition. My friend, the representative of the Philippines—who, in spite of all differences, is a good personal friend—is entirely in error in the reading of the facts in this matter and we would find no impartial, legal or juridical support for his position. If that position is taken there is no basis for talking at all. Besides, I want to submit to the Council another proposition. As a former Governor-General of India said: "What is Kashmir, a no-man's land?" My colleague says, in his very laboured attempt to establish equality of the two sides, that neither Pakistan nor India has sovereignty in this place. If it is a no-man's land that would be a very peculiar position. On the other hand, if neither of us has sovereignty, it will go back to the Maharajah of Jammu and Kashmir whose son is the President of the Kashmir State at the present moment. There may be some advantage in that, but we are not prepared to take advantage of it.

As regards the idea that the United Nations has some unexplored territory over which it is going to establish its dominion, may I say that the United Nations is not a

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sovereign body to do all these things? It is merely a conglomeration of Governments to make recommendations to them, especially under the provisions of the Charter with which we are dealing now, namely, Chapter VI, to seek a conciliation. I submit that the observations made by the representative of the Philippines are contrary to the basic arrangements, to the basic positions which are enshrined in the relevant resolutions, in the assurances and in all the proceedings that have gone on. It has been contradicted by Pakistan now and then, but the Commission has repudiated it.

The representative of the Philippines makes a fundamental error, which he could easily rectify if he reads the resolutions. He says that the UNCIP resolution places both the parties on the same basis. That is exactly what it does not do. It places us on the same basis if by that is meant that, both of us are involved there. It certainly does not place the parties on the same basis. In fact, it is just the contrary. It is exactly what it does not do. That is the meaning of all that has been argued before the Council, of all the assurances given by Mr. Lozano, as Chairman of the Commission, and of the words that are written into it and any document, must be interpreted in their natural meaning.

Therefore, the submissions that are made are entirely contrary to the facts and to the law that obtains in this case. There has been no achievement of demilitarization except as I said: a voluntary withdrawal of a considerable part of the Indian Army that was there at the time of the fighting.

That was not done under orders of the United Nations, but because we thought that was the best thing to do. That is the demilitarization that we have carried out. It is also a part of the general cutting down of our forces.

There is an attempt in the statement made by the representative of the Philippines to establish an equality of status. This is what Pakistan has been trying to do for a very long time, but it has not found such obvious advocates in this Council until now. Now, therefore, we, as the Government of India, completely dissociate ourselves from, and emphatically repudiate these statements in so far as they are contrary to the Charter, contrary to the resolutions, contrary to the assurances and contrary to a good conscience.

That takes us to the two main statements. I will leave aside the statements of the Soviet Union representative and of the representative of Colombia because they are not advocates of the resolution, which is what you are considering. But wherever the United Nations forces appear in this context, my Government has already expressed its position. Therefore, perhaps, before I deal with the statements of the representatives of the United Kingdom and the United States it would be advantageous to me to make this position clear.

The Secretary-General is not a jurist, he is not a law-giver or anything of that kind but, when the Secretary-General submits a report and it is accepted by the United Nations then it has a different value. And, here I refer to Document A/3512 dated 24 January 1957 with regard to the use of the United Nations Emergency Force. And this is what the Secretary-General said:

> (b). The use of military force (Krishna Menon: There has been no suggestion that it is going to be boy scouts or the Red Cross, or the Ladies of the Order of the Golden Cross or anything of that character) by United Nations other than under Chapter Seven of the Charter requires the consent of the States in which the Force is to operate. Moreover, such use must be undertaken and developed in a manner consistent with the principles mentioned under (a) above.

That is, that there should be no change in the *status juris*. Paragraph (a) which I do not want to labour with in the Council, definitely refers to the fact that there should be no change resulting from a military action. It says:

> The United Nations cannot condone a change of the *status juris* resulting from a military action, contrary to the provisions of the Charter.

But this is exactly what is being done.

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Pakistan invaded by military action—it was not welcomed as a liberator—it invaded the territory and, by annexation, changed its positions; and, if the points raised by the representative of the Philippines were to be followed, then this would be an attempt to change the *status juris* as a result of military invasion. Therefore, the Secretary-General's authority which has gained sanctity because it has been accepted by the General Assembly, is very much a point to be taken into account.

The next paragraph is even more important, from some points of view, where it continues:

> It must furthermore (Krishna Menon: and I am sorry if the Secretary-General feels embarrassed by this) be impartial in a sense that it does not serve as a means to force a settlement, in the interest of one party, of political conflicts or legal issues recognized as controversial.

If that sentence is correct, there is no other inapt context in which the United Nations Force can be brought in.

Now, of course, it can be argued, that no one is trying to send this Force over there to force itself upon us. The answer is twofold—and I am sorry that my friend General Romulo who, by his career and by his knowledge of the problems of law and order, and, perhaps, of disorder, and by his knowledge of these problems has not taken some note of what I said this morning, when he said that the whole plan as put forward by Pakistan, "deserves consideration"—"deserves", I suppose, is a kind of phrase that usually has some sanctified significance, some holy merit attached to it. When it was put to us, the whole idea was that everybody else should go away—the Indian Army should go away, the Kashmir police and militia should go away and everyone else should go away and the Pakistanis also, except that of course, the 45 battalions of the "Azad Forces" would still be there. And then there would be a very good "banana fight" in the place.

That is the position; that is to say, who is going to keep order in this place? When the representative of the Philippines tells us that it is not intended that it should use force, I ask what it is going to do there? Who is going to be responsible for law and order in this area? That is our responsibility.

I have quoted Paragraphs (a) and (b), and I will now proceed to (c):

> (c) The United Nations action must respect fully the rights of member Governments recognized in the Charter and the internationl agreements not contrary to the aims of the Charter which are concluded in the exercise of those rights.

These three Paragraphs (a), (b) and (c) are conclusive in regard to the inaptness and illegality of this, and what I have submitted in regard to the law and order problem does make the whole thing—I will not use any strong words—totally impractical.

But over and above that, the United States and the United Kingdom, who produced this draft resolution which has now been co-sponsored by others, had both private and public knowledge that the Government of India would in no circumstances agree to this. Therefore, to produce a proposition which requires the consent of the parties in the face of our declaration that we will not agree to it, is either to take the view that what we say does not mean anything, or that, their persuasive powers would be so great that we would surrender our principles. I think that neither of those conclusions is justified. Therefore, the head of the Government of India in a public declaration on its behalf said that we would not agree to the introduction of this force and, what is more, would view the introduction of this force even into the Pakistan-occupied area—which is our sovereign territory under enemy occupation, if only an enemy for purposes of Kashmir—as constituting a violation. What is more, I said before this Council, on behalf of my Government, that any Member State participating in the force in so far it acts contrary to the Charter, would be violating our sovereignty and coming in the way of our bilateral relations.

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I refer to the Charter and I ask those who are responsible for this resolution to find me one word in Chapter VI which is concerned with a pacific settlement of disputes with reference to the United Nations Force. There is none. Therefore, it is not possible, it is contrary to the Charter. It is only in regard to this, that we want to refer to any amendments, such as those of the delegation of Colombia to any part of the resolution although it is a very much milder proposition than that which has been put forward by the United States and the United Kingdom.

I would like next to refer to the observations made by the representative of the United Kingdom. I would like to say that the statement made in support of this resolution is an attempt, in so far as words can do it, to try and make it palatable to us. Every attempt has been made by the very able representative of the United Kingdom to make this proposition something that we would buy, that the Government of India can tell the people it is not too bad. But that does not take away its character. The leader of our country, who created our independence, Mahatma Gandhi, told the Viceroy, Lord Irwin, when he produced a certain form for a settlement at that time:

> It is no use your giving me names; I must take it, I must weigh it, I must bite it, I must sound it, I must taste it and see what it is like.

So we have masticated this during the lunch hour, and I pay my very humble tribute, but a great one, to Sir Pierson Dixon for the great dexterity of language in which this very difficult and unpalatable pill has been presented to us in a most agreeable fashion. There is no doubt in my mind that it is his desire, and the desire of his Government, that we should accept this because, they probably believe that it will lead to something that they want. So far as the United Kingdom is concerned, there is no antagonism to India but, of course, there is a long history whereby the whole of these problems are associated with our two countries.

I would like to refer to page 71 of S/PV.772, Sir Pierson Dixon's statement. May I say here without lacking in deference to the Council, that, in so far as we have heard them, the debates on the resolution have been largely between the Soviet Union and the rest of the members? So Kashmir does not come in a great deal. But still, there is some reference to the resolution in this speech. Now this is what Sir Pierson Dixon said:

> ...By recalling all the resolutions, the present draft is designed to avoid arguments about the different weight to be given to the previous resolutions. This, I should have thought, would be reassuring to both parties.

With the greatest respect, I submit, that this is exactly what it is not. There is a difference in the weight of these resolutions. The resolutions which parties accept and those which they do not accept are in different categories. The resolutions of 17 January and 21 January, 1948, the UNCIP resolutions, assurances given, these are all resolutions which carry a greater weight—that is because we have accepted them. We are parties to them, whether we like them or not. Therefore, to suggest that there is no difference of weight is exactly contrary to the purposes in mind, namely, to create a receptivity in our minds. That is one of the main objections to this resolution that we would have if we were members of the Security Council, namely, these resolutions have been called to rub salt in the wounds that already exist. They are things we have rejected over and over again. They deny the propositions which have been admitted by the Security Council before and they embody violations of the Charter. That is one point I would like to make.

I am happy to welcome a statement in Sir Pierson Dixon's observation which says:

> I was asked to say why the resolution of 24 January 1957 had a greater significance than that of 17 January 1948. My answer is that it has no greater significance.

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This is the first time in the whole of this debate that a member of the Security Council has stated in terms that 17 January resolution is too sacrosanct. We welcome this and we hope the Security Council will pursue this matter. If 17 January resolution is observed you will be in the beginning of a settlement.

I have already dealt with the problem of the United Nations forces, so it is not necessary for me to refer to the observation that appears on page 72 of S/PV.772 which says:

> It is surely in accord with the letter and the spirit of the Charter that the Security Council should tell the parties that it believes that this idea might conditionally deserve consideration.

My distinguished colleague says that it is deserving of consideration. I submit that it is a recommendation of something contrary to the letter and to the spirit of the Charter and, what is more, is contrary to the very basis on which a solution can be found, namely, the agreement of the two sides. We have definitely said that we will not agree to this. It is a Pakistan proposal which has been taken up by others.

We welcome the statement which is a modification of the previous positions held by the United Kingdom. We welcome it when he says:

> Demilitarization in this context means simply the process or procedures of withdrawing troops as laid down in the UNCIP resolutions.

I want to ask my distinguished colleague, either publicly or in private, if it means that, then why not start with the first part? That is where it was intended to start because it is only after the first part is completed that the second part comes into operation. And it is only when the first and second parts are completed that the third part comes into operation. If demilitarization in this context means the process or procedures for withdrawing troops as laid down in the UNCIP resolutions, then why not do it? The mistake in this matter, for which we are to a certain extent responsible, has been in talking at the wrong end and getting into this higher calculus about quantums and forces and things of that character.

Therefore if "demilitarization in this context means simply the process or procedures for withdrawing troops as laid down in UNCIP resolutions", may I take it that the United Kingdom now subscribes to the immediate operation of the Clause B of Part I and Clause E of Part I. That is not demilitarization, but is connected with it. I would like to say, and I hope it will be conveyed to the Government of the United Kingdom, I have no doubt it will be, that we cannot accept the view expressed in conclusion that the draft resolution before us prejudices no position because it is merely a request to us for a matter deserving consideration. I ask in all fairness: look into the history of the case. Whenever we have looked at something, we have been told that we have bought it. Now if this idea is introduced in the document which has all the sanctity of the Security Council resolution, we get involved in this matter. Therefore, we cannot agree to the position that it prejudices no position, especially in view of the colleagues whom the United Kingdom has been able to obtain in support of the proposition. It has the virtue that it bridges the Indian election, without halting all the attempts to find a solution during that period. We are grateful that it is more or less agreed on all sides that the Government of India would not be able to give consideration to any matters of policy until the elections are over. For that we are very grateful, and we express appreciation. The other part I will come to when I am dealing with the last of these observations, namely, the question of its effect.

That takes us to the United States statement. We are here in extreme difficulty, Mr. President. Right through this debate, in view of the sincere attempts we are both making to establish better goodwill in the world as between ourselves and other people, and in spite of the strong differences that exist between their policy and ours in regard to Asia, when the United

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States became a party to taking under protection all the territories south of a particular parallel, we have been very careful not to drag in a great number of matters. Even at this stage we do not propose to lift the whole curtain because the way of conciliation does not lie in saying everything that can be said, but the duties to one's Government demand that what must be said has to be said.

Now, here is a statement that begins on page 61 of this document. I am very sorry my distinguished colleague, Ambassador Lodge, is not present; that however makes no difference because it is a statement of the United States Government.

> Now, the cease-fire is in effect. But it is the failure to reach agreement on the terms of a truce that has prevented further progress towards a plebiscite.

I would say, with great respect, that this totally ignores everything that the Government of India had to say this morning. I think it is deserving of courtesy between two friendly nations that at least those arguments should have been entertained and, if necessary, argued and rejected. Our position is that Part I has not been observed. Now, when the distinguished representative of the United States says "cease-fire is in effect", if he means thereby that there are no hostilities, we agree. But that is not what it says. Part I says "Cease-Fire Order", that is the heading, and what does it say:

> The High Commands of the Indian and Pakistan forces agree to refrain from taking any measures that might augment military potential of the forces under their control in the State of Jammu and Kashmir.

Now, that is what we have been doing for nine years. Therefore, our position as I stated categorically this morning is: it is a violation of Part I and it is the duty of the Security Council, in our humble submission, being parties to this resolution, to take note of it. We have not succeeded so far in getting any expression of opinion from any member of the Security Council which in any way reflects upon the many acts of omission and commission on the part of Pakistan, contrary to the Charter, contrary to the agreements and contrary to the resolutions. Therefore, this is entirely erroneous. We want to enter a caveat against it that we do not accept the position stated by the United States that cease-fire, as far as it means Part I of the agreement, is in effect. It is not in effect. On the contrary, it stands violated and continues to be violated as it has been for the last nine years.

We are told that the four-Power draft resolution is designed to assist India and Pakistan to carry out the obligations which they have assumed and which they have reaffirmed before this Council. This would be a good occasion for me to dwell on a similar sentiment expressed by my colleague from the United Kingdom. This draft resolution not only will not promote the process of bettering relations and of finding solutions but will hinder that process. It will impose enormous burdens upon our Government in regard to our public opinion. It will have the effect of fomenting communal feelings in India. It is a draft resolution, I suggest, that is just not of a healing nature but one that is calculated to create irritation and suspicion and, what is more, to confirm a feeling in the minds of our people that there is no fair approach to this problem in this Council so far as India is concerned.

These are strong words, but I am asked to say so. I am only repeating what the head of my Government has said.

Therefore, the view that is stated here that this draft resolution is designed to assist India and Pakistan to carry out obligations is a wish which we appreciate—we appreciate the sentiment—but, as far as facts are concerned, that is not so; it will have the reverse effect.

I come to the last of the observations of the United States. Before that, I want to express my regret to my colleague from Australia in regard to what I said about the United Nations forces in Egypt. I notice now that there is only one resolution on

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which this country abstained. But my statement was cast in a mould that it was generally not in favour of the action that was taken at that time. In any case the argument was that the two cases were not parallel. In one case there was the invasion of Egypt and the purpose of the United Nations forces was to remove the invaders. In this case the invasion is by Pakistan and it is the invader that is inviting the United Nations forces. Therefore, you are not on the side of the householder but on the other side to whom you can give whatever name you like. The representative of the United States tells us: "The United States values its friendship with India and Pakistan". So far as we are concerned, we have no doubt about that. So far as Pakistan is concerned it is not for us to say.

A reference has been made here to our relationship with Pakistan. (Krishna Menon: We have and, I am afraid, you will hear of it as time goes on). The United States is glad to be associated with Pakistan in collective security arrangements and to be assisting it in a co-operative defence effort. We have always attempted to approach the Kashmir problem on its merits and we do not believe that our collaboration with Pakistan in area defence affects the merits of this case.

I think it is a legitimate question for a comparatively large country like ours, who are not interested in this area defence and, what is more, have expressly pronounced themselves against it, to ask: how can it be a friendly act when the United States intervenes in our area along with its allies with one participant in what is called, area defence? How does this differ from the kind of protectorate that was proclaimed by Britain and France over the various territories in the past in which they took these territories under their protection? Therefore we repudiate this idea of area defence. Area defence—in which area?

If this stood alone, it would not matter. But I would like you to listen to this and read this side by side with the view of the Commander-in-Chief of the Pakistan Army. Then I think that you, in whatever way you vote—some of you if not all of you—and certainly peoples of the world will begin to understand that here in regard to Kashmir, while resolutions are being passed without any reference to realities, there is being fomented a situation which can lead to a great catastrophe. This is an account of what General Ayub said on 15 December:

In the event of a major war Pakistan was not likely to send an expeditionary force.

So all this furniture that was sent over is only for domestic purposes. It is not coming to anybody's defence. It is not coming, I say to Sir Pierson Dixon, as the expeditionary force went to the battle of Marne in 1914. It is not going, as the Indian Army went into the desert of Libya. This is a categorical statement. It goes on to say further that it is for the purpose of "the interior lines". Then, according to the report, General Ayub said:

Pakistan's potential enemies were a good deal stronger in potential and superior in number and equipment. Therefore, we have got to have an army which is standing ready to take the field within a week.

Now, where will Pakistan go within a week? It could not be to the Soviet Union. It can only be next door to us. And we have statements of persons, to whom I cannot make a reference out of respect to the Secretary-General, who have pointed out that the enemy of Pakistan lies to the south of Pakistan. There you are, "standing ready to take the field within a week".

It does not stop there. I am not going to read the whole of this. General Ayub continued as follows:

'I hope to have an army which is highly skilled (Krishna Menon: And that is the ambition of every general). It is on that that the future of Pakistan will depend.' (Krishna Menon: That is a very pathetic phrase. The report goes on to say) General Ayub said that....the American commitment was to give the Pakistan Army the means to create certain units that would balance certain divisions. This programme has now been geared in. It is moving splendidly. It is a limited programme. A certain number of divisions had

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been allowed to be balanced. But there was enough man-power in the army to balance and double the number of divisions though that would perhaps require an enormous amount of money. (Krishna Menon: Therefore, it is not a small arrangement that is being contemplated.) A strong Pakistan Army would create an enormous amount of stability in this region (Krishna Menon: that is to say the purpose, according to the Pakistan Commander-in-Chief; I do not charge this to the United States). We could control a number of difficult situations in this region?

We are probably one of the difficult situations. Are we to assume that the United Nations—and certainly we do not assume the United States does—have come to a position when the stability in the region is dependent upon its army? Stability in that region is dependent upon the economic well-being of the people, upon their contentment, upon the progress of democracy—by conferring, for example, upon the people in "Azad Kashmir" the power to express themselves, instead of suppressing them. And here we have a strong statement of the Pakistan Commander-in-Chief that "a strong Pakistan Army would create an enormous amount of stability in this region. We could control a number of difficult situations in this region". I have not come to the best piece of this. It comes now. This is what must worry everybody. The report stated:

> General Ayub said that this was, for the first time, that exercises envisaging the use of tactical atomic weapons were being staged in Pakistan (Krishna Menon: I did not invent this). Hitherto, the Pakistan Army's studies have been confined to studies of atomic warfare in the tactical field. 'To put our observations to a practical test, this exercise is being staged'. The conclusions and the technique of fighting in nuclear battle-fields would be evolved from this exercise. 'The exercise is being staged keeping in view the terrain in West Pakistan plains where riverine obstacles (Krishna Menon: There are no rivers on the other side in the way of obstacles, they are on this side. I do not have a copy of a map to circulate but you know where riverine obstacles are) are frequent. The battle has been developing during the past two months. Now the climax is about to reach' (Krishna Menon: This is about the army manoeuvres.) A riverine obstacle across which the 'enemy' is concentrated is to be crossed so that the 'enemy' concentration can be attacked from the rear with the tactical atomic weapons.

I ask the Security Council to make its own estimate of whose rear. This is the position which we are facing in regard to the enormous quantity of war material that has gone there. Now, we have, on the admission of General Ayub, a supply of atomic tactical weapons in our area by a country that has pledged itself not to use its advanced atomic knowledge—its considerably advanced atomic knowledge over Pakistan or any other Asian country for that matter—for military purposes. For our act of self-abnegation not to use atomic-power for destructive purposes, we are threatened by the other side with attacks in the rear and, for the first time, exercises are taking place with atomic tactical weapons. Not a needle is given by the United States with a view to attacking us. But, I submit, that with all the power that the United States possesses—moral, physical, political, dollar and everything else—it would be impossible for them to control what Pakistan has, any more than a parent can control the use of a pistol or a penknife by a child. That is the position.

This is our reply to the remarks by the United States about the glory of that alliance. After all, there was no point of introducing it into the statement otherwise. My delegation has gone much further into this field than it had intended to go. The initiative was not ours. We deeply regret this aspect of the matter. I hope that the representative of the United States will not mind my saying this. It is a practice which we derive from the Father of our Nation to tell the other party what we are going to do. Therefore, in making these statements, we have informed the United States delegation that we propose to use these facts.

The Security Council is the master of its own procedure and its own decisions. It has heard many statements, some of which having no relation to facts set out in the

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documents before the Council. The only question to which thought must be given now is: What is the effect of all this? We came here under Chapter VI of the Charter. There has been no suggestion of using Chapter VII. We have not asked for it. It cannot be used against us because we have not invaded anyone's territory unless, of course, you were to accept the view of the representative of the Philippines, that we have no business in our own area. To carry out that view would take a lot of doing even here. Therefore, the only procedures that can be adopted are pacific procedures. The essence of pacific procedures, Mr. President, is mutual consent; the Security Council after 20 January has, time after time, passed resolutions under the initiative of the United Kingdom, afterwards joined by the United States, and now jointly, which India has not been able to accept. They have been informed publicly and privately that we have been unable to accept them but the Security Council continued to pass resolutions without any reference to conciliation, without any reference to the possibility of acceptance, and, what is more, in this particular case, a draft resolution has been presented which largely embodies proposals that have been put forward by one side. This is not calculated to bring about a settlement. We hear phrases even from General Romulo that the two sides must decide on something themselves. But no one is helping us.

The result of this decision and its reaction upon people will be once again that there is no conformity between a resolution and the ethical principles of the Charter, and that something has gone wrong somewhere. That will be the result of this kind of procedure where you speak about demilitarization when the invader has made further conquests and has reaped harvests from them and not a whisper is evoked by the eleven nations gathered round this table. A part of our territory has been forcibly incorporated and over a million of our people are under suppression.

What answer will be given to these matters by our people, who will go to polls to record their verdict? You will know by the middle of next month what our people feel about this.

I say, in all sincerity, that both Sir Pierson Dixon and Mr. Barco, in speaking for Ambassador Lodge, are entirely sincere in thinking that their presentation will assist in getting somewhere. But we are in this problem. How do we convey to our people that the proposal which reflects the views of the side which invaded us is a proposal that will bring about a conciliation? It has been said that there is no objection to looking at something even if it is not accepted. But every time we have looked at something, we have been told that we have accepted it. We do not want that to be repeated.

I say, therefore, that the Security Council now takes upon itself another dose of serious responsibility. Let not General Romulo say that I was admonishing. I am here to represent the views of the Government of India. What is more, I am happy, in a sense, that I have no compunctions and no conflict of mind or conscience on this matter. I have read these papers; thousands and thousands of pages of them. I have spent nights and days over them and I have no doubt that any impartial and competent examination of these documents will lead to one conclusion only and that is, that the nine years of effort that have been spent by Pakistan in consolidating its conquest and invasion have been in violation of the Charter; that the Security Council has been invoked not in order to bring about peace but in order to be used as a sledgehammer to strike another blow against us. We make no threats. I repeat once again my final words: We shall not do a thing, whatever are our political, moral, ethical, legal or any other rights, which involves the use of force, to alter situations. That is our position at present. What will happen in generations to come nobody can ever guarantee. I would like that also to be

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remembered, because some of us are drawing close to our end and others will come after. This may go on for a long time.

But while we will not do that, I want to repeat again, that all signs which I read out to the Council in the statements by General Ayub, all information that we have about the massing of these troops, all that goes on in the lobbies of the United Nations, which members may see in the press tomorrow—this is all an indication of the repetition of the processes of 1947. And again we shall be told in this Council that the Indian Army moved in first. I want to be perfectly frank with this Council, as I am sure my Government would want me to be. We have no irregulars, we have no guerillas, we have no bandits—we have no one except our regular Army and our armed police force to meet aggression. On the other side, there are irregulars, bandits, people who have committed rapine and plunder, people who raped and murdered others of the same faith, people who talk about co-religionists. They are the pioneers and forerunners of the new invasion. We have to meet them with regular troops and regular troops are identifiable. Let it not be said in the Security Council at any time that the Indian Army moved in first.

I pledge the faith of my people that if our territory is attacked, we shall defend it to the last man. All these threats that have been made in this Council will only create irritation. We deeply regret, as my Prime Minister has said, the resolution adopted by the Security Council the other day in regard to the Constituent Assembly—the same Security Council that would not lift a finger when half the territory was incorporated. And here we have done nothing unconstitutional and have made no physical change from the position of 1947.

But there were two resolutions, and Sir Pierson Dixon, in their presentation, believed that we were doing something wrong. He accepted the crisis atmosphere. I, therefore, beg of him to realize that whatever the arrangements he may come to so as to push this thing through and to hand over to India what amounts to a non-conciliatory effort, what amounts to a Pakistan proposal, will not bring about peace. However, whatever the resolution the Security Council may adopt, however hostile it may be to us and however much we may not be able to accept it, at no time has the Government of India said that it would not look at it.

So far as the President of the Security Council is concerned, he is welcome in our country at any time, but his terms of reference have to be examined in a political context. That is why, as people who are most affected by this, we say to you before you take another step which worsens the situation—as the situation is already bad—which feeds the dogs of war, which encourages the forces of conflict and, what is more, at a time of great national election when 200 million people are in the process of political awakening, which conveys to them the feelings which have relation to communal tensions, to Hindu-Moslem feelings or the intervention of other peoples or past relations of Britain with India, or theories about relations with other countries and with regard to military alliances, that all these things are fraught with great danger.

We have no right except to plead, because we are not members of this Council. We cannot give you counsel. You have asked us to express our opinions and our opinion is that this is a step fraught with danger.

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IX

21 February, 1957

I am deeply beholden to the President and to the Council for their kindness in allowing us a few minutes in which to think this matter over. We think there is considerable merit and cogency in the statements made by the representative of Colombia and the representative of the Philippines to the effect that, at this stage a further detailed debate consisting of answering controversial points raised is not only not of value but perhaps not appropriate in view of the protracted proceedings. It is the intention of my delegation, therefore, not to take that course.

Thanks to the very kind courtesy of the Pakistan delegation, we have been able, during the recess, to look at the script of the statement which the Pakistan representative made before the Council. It is necessary, for the purposes of record, for us to say that we dissociate ourselves totally from a large number of statements contained in it—the approach that is made to the problem—and to point out the fact that the statement itself really reopens the whole ambit of discussion and that, therefore, any piece-meal reply to it would be unsatisfactory. I shall, therefore, confine myself to the draft resolution that is before us.

With regard to this draft resolution, the position of my Government is what I have repeated several times before. We are not members of the Security Council; we are only asked to offer observations. We have already referred to many of these facts. It is my duty to tell the Council that the draft resolution will be communicated to the Government of India and that the Government of India will take it into consideration with such advice as we are able to receive from you, Mr. President, because the draft resolution places you in a particular context.

The statements made yesterday by the delegations of the United States and the United Kingdom—or other statements—do they form part, in any sense, not of the draft resolution but of your mission? So far as we are concerned, there are several points which we have to make clear and I shall do that in very few minutes. First of all, the only resolutions in which my Government feels engaged—and I use the word "engaged" deliberately—are those which it has accepted. For, the resolutions passed by the Security Council under Chapter VI of the Charter have no binding effect upon Member States unless they consent. We have rejected them, and, indeed, the Commission, after our rejection, had proceeded on the basis that we had not accepted them. Therefore, while we cannot recalling resolutions, what its value is would be for the Security Council to decide in future.

We deeply regret what is in our opinion an unnecessary and provocative pinpointing of the resolution of 24 January 1957, especially as the generic phrase "the previous resolutions" had been set out. The same applies to the words "having regard to the previous resolutions of the Security Council". My Government freely confesses that the Security Council must have regard to its own resolutions, but so far as Member States, which are not members of the Security Council are concerned, when proceedings under Chapter VI are being pursued, its relevance to them is based only upon consent. That is all there is to it.

I wish to state that our approach to this problem is based upon the following and the fundamental considerations which have

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been advanced before the Security Council from 1 January 1948 until 20 February 1957:

First, the State of Jammu and Kashmir is a constituent unit of the Union of India by law, by equity, by every moral and political consideration, and the only authority that can legally separate the State is the sovereign Indian Parliament. This is not only municipal law but the law which must be recognised as international, more particularly by the delegations of the United States, the United Kingdom, Australia and France which have recognised, in their legal systems, that municipal laws which obtain general currency automatically become part of international law.

Secondly, there is the principle that the territorial integrity of the State of Jammu and Kashmir is inviolable. We cannot accept the situation of a so-called *de facto* occupation mentioned in the statement of the Pakistan representative. The sovereignty of the Jammu and Kashmir Government over the whole area, the responsibility of the Government of the Union of India for the security of the Union as a whole, are basic factors from which we cannot depart.

Neither can we, at any time, abandon the commitments we have made in the light of the deliberate and public assurances given to us which are part of the consent that the Government of India has proffered to the propositions placed before it.

Equally, in conditions of today, India cannot afford to disregard—as no country can, in conditions in which we live, afford to disregard—the internal and the external security of our land. And under that heading there must be included in the account the enormous amount of war material that has come into Pakistan through the United States military aid and which includes, as I said yesterday, either the present or the future possibility of the use of atomic tactical weapons to which the Commander-in-Chief of Pakistan referred.

These and other factors set out in the statement I made yesterday, on behalf of the Government of India, are part of the approach of the Government of India to this problem. At the same time I repeat the two propositions:

First, the President of the Security Council will always be welcome in India. The hospitality of our land and the courtesies of our Government will be at his disposal.

Secondly, India is not in a position—and I say this not with any desire to cause delay—to consider any matters of high policy until a new government is established in the country which will take place, at the earliest, in the latter half of March.

I shall not take the time of the Council any longer except to reiterate these conditions. But it is appropriate to point out two things; any new attempts in this direction, if it is even to open the first pages of a new book, have to start with the calling off of the dogs of war, of hatred. We will not sit under the crusade of a "holy war".

I want to invite the attention of the United Kingdom representative to a despatch that has come from Muzaffarabad in west Kashmir, which is Pakistan-occupied area. This despatch appeared a few days ago in the *Daily Telegraph* of London. It points out that the "Azad Kashmir forces", which are technically under the Pakistan General Command, are stated to number 35,000 and it goes on to say that Minister of the "Azad Kashmir Government" "claimed that this figure could be increased overnight to 80,000 of whom 70,000 are trained ex-soldiers".

These are all well known facts, as are facts about the vast quantity of ammunitions of war material that has flowed into Pakistan, and they are to be considered against the background of the statement made by the Pakistan Commander-in-Chief about atomic tactical warfare in order to deal with the enemy behind the "riverine" area. I am sorry that Ambassador Lodge was not here last evening but I am sure this has been conveyed to him.

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In those circumstances the sovereign duty and responsibility of any country is to look after its security.

Finally, I should like to say I will take steps to communicate the resolution to the Government of India which will take it into consideration as soon as a new Government is formed after the General Elections.

I am not going to make another statement. There are a couple of sentences I wish to add to my previous statement.

One is that, whatever I have stated today, on behalf of the Government of India, is not in any sense to be regarded as superseding the statements made over the past several days but as only arising from them, and the whole of them are relevant in any future consideration.

Second is the point which escaped my mind as I was not speaking from notes. It is that, whatever consideration the Government of India may have given to or even whatever provisional sympathies it may have expressed with certain proposals of exploration during the last seven or eight years, they are not binding upon our Government for two reasons. First of all, they arose in the course of long discussions with all surrounding circumstances that have taken place in different conditions—and whether friends around this table like to accept the view or not, changed conditions have to be taken into account. Therefore, no exploratory, hypothetical or provisional considerations or propositions that we might have put forward or entertained or considered or viewed with sympathy in the past, are binding upon our Government. My Government is most anxious that, in no circumstances, should we lay ourselves open again to what we regard as an erroneous suggestion that we are going away from commitments. Therefore, we have to be doubly careful in any exploration of this kind.

I want to thank you, Mr. President, and the Council, for the patient hearing you have given to the views of the Government of India. If, in the course of arguing a very legitimate but a difficult case before a comparatively hostile Council in regard to our point of view, we have had to take up firm positions and reiterate them with a degree of firmness, I hope we have not said anything that may be regarded as unparliamentary or that has caused any ill-feeling and that discussions in the past few days will have assisted to clarify the problem and the position of the Government of India.

Finally, of all the people around this table and of all the Member States of the United Nations, our Government, our people are far more concerned about the safety and stability of our land and the millions of people that inhabit it. At no time, in rather strenuous circumstances in which we live today in our part of the world, can we throw that consideration to the winds.

GMGIPD—L—197 PD—11-3-58—5,000.

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